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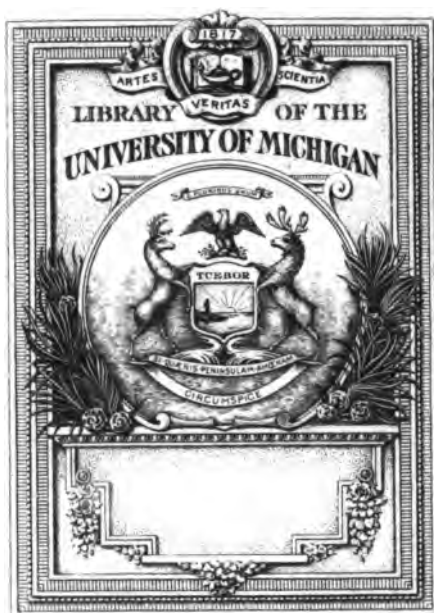
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STATE OF NEW YORK (*State*)

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PUBLIC PAPERS.

OF

ROSWELL P. FLOWER,

GOVERNOR.

1892.

ALBANY, N. Y.

1893.



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COMPLIMENTS OF

Roswell P. Flower

PUBLIC PAPERS

OF

GOVERNOR FLOWER.

At noon on the first day of January, 1892, Roswell P. Flower entered the Assembly Chamber in the Capitol at Albany, which was already crowded with citizens, and was greeted by the retiring Governor as follows :

EX-GOVERNOR HILL'S ADDRESS.

Mr. FLOWER:— The people of the State by their suffrages have summoned you to the discharge of the high and responsible duties of the office of Chief Executive. I congratulate you upon the flattering endorsement which characterized and emphasized their choice, and upon the many evidences of popular approbation which your acceptance of the great trust has evoked on this auspicious occasion. In pursuance of a time honored custom, we have assembled in the Capitol in the presence of our fellow citizens, to participate in a few simple and appropriate ceremonies attending the transfer of the reins of government of our State.

It is always an event of peculiar significance and usually denotes an interesting epoch in our history. The transition of power without tumult, friction, or danger, is illustrative of the simplicity and excellence of our free institutions.

To-day's occurrence marks the forty-ninth inauguration of a Governor of this State. From the day when its first Governor, George Clinton, took the oath of office in the old "Senate House," in 1777, down to the present hour, the distinguishing feature of each occasion has been the plain and impressive character of the proceedings, and the sublime exhibition of the abiding loyalty and patriotism of the people.

The position of Chief Executive of the Empire State has its attractions, its rewards, its honors, its responsibilities and its burdens. It is a station of dignity, importance and power.

Permit me to reiterate the sentiments which I had the honor to express on a similar occasion in speaking of this office.

"This field of public service is bounded by no narrow limits. It includes the responsibilities of Executive power; of directing the military forces of the State, as Commander-in-Chief; of determining the life and liberty of the citizen in the sole exercise of the pardoning power; of convening the Legislature in extraordinary sessions; of appointing many important public officials charged with the administration of great public trusts; of removing for just cause numberless officials of counties and cities throughout the State; of recommending to the Legislature appropriate subjects for its consideration; of exercising conjointly with the Legislature the vast power of legislation, establishing laws concerning every element of society and relating to every form and species of property, business and human conduct; of solely and wisely employing the tremendous power of the Executive veto; and generally the duty of taking care that the laws are faithfully executed throughout the whole commonwealth. These responsibilities

affect the prosperity, honor and welfare of nearly six millions of people."

You, sir, having performed every public trust to which you have been assigned with ability, firmness, and conspicuous fidelity, the people are confident that the same earnest devotion, the same rugged honesty, and the same resolute courage will characterize your forthcoming administration and secure for you the continued approval of our citizens. But after all the consciousness of duty well and faithfully performed is the noblest and highest recompense which it is possible to achieve in the public service.

Of the principles which so signally triumphed in your election and the policies which were thereby approved,—this is not the hour to speak. I may only observe that it is believed that the measures which your administration will enact will enhance the best interests of the State and add lustre to its annals.

It is a cause for felicitation that the opening year of your term will find a Legislature in harmony with your political views and in accordance with the sentiments of a large majority of the electors of the State.

Finally, allow me to say that as the retiring Executive and as an intimate acquaintance of many years' standing, it gives me great pleasure personally, as well as officially, to welcome you to the Capitol of the State and to greet you as my successor.

To this Governor Flower replied, addressing first his predecessor and then the assembled citizens.

GOVERNOR FLOWER'S REPLY.

GOVERNOR HILL:—I thank you for the kind words with which you have welcomed me to the high office whose duties you have just relinquished and I am about to assume. The

responsibilities and cares of that office you know better than I. The seven years of your administration as Governor have been years full of labor and fraught with many trials and difficulties, yet rich in rewards of honor and praise. During all of those seven years you have faced opposition before which only a strong man could stand and over which only a determined and resourceful mind could triumph. The measure of your victory has been shown in the yearly increasing manifestation of public approbation as expressed at the polls. I am sure I express the deep sense of both my own and my party's conviction when I say that to the popular confidence produced by your intelligent, economical and honest administration of public affairs is largely due the emphatic declaration of the people last November against any transfer of political stewardship. They have found in you, their servant, a sturdy defender of constitutional rights, a resolute and consistent champion of home rule, a wholesome example of honest and honorable partisanship, a faithful, able, and fearless Executive, whose bold personality and administrative genius have left their lasting imprint upon the affairs of our State and won a warm place in the people's hearts. I congratulate you sincerely, sir, upon your distinguished achievements, and in the new field of responsibility to which you have been commissioned may the same honesty of purpose, the same force of character and the same rare ability bring new laurels to your well-earned fame.

FELLOW CITIZENS: — I am here to take in your presence the solemn oath which marks my installation into the honored office to which you have elected me. The simple ceremony will be quickly over, but the obligations which it imposes will ever remain increasing reminders of your trust and my responsibility. Profuse promises betray generous intentions but too often excite distrust. I make none. I prefer that by my acts

rather than by my pledges you shall judge my fidelity to your interests and my devotion to your happiness and prosperity.

Yet this occasion suggests to me, more vividly perhaps than it can to you, the magnitude of the undertaking which I am about to assume and the dependence which an Executive must feel upon the generous indulgence and kind cooperation of his fellow citizens. I have no ambition save to win your esteem and respect. I expect and invite criticism of my official acts, but I also appeal to your disinterested patriotism to assist in raising the standard of the public service, in inspiring a loftier conception of official responsibility, and in encouraging a more general feeling of State pride and a broader view of State policy.

Our State is still the Empire State. In commerce, in finance, in industry it acknowledges no superior. Its six millions of people represent well the intelligence, the learning, the social and political ideals of our country. Surely with such great resources and advantages no inferior rank in the sisterhood of States should satisfy our citizens. Our continued supremacy should be our dearest wish and the studied object of our most intelligent statesmanship. But that is to be attained only by the broadest conception of our possibilities and the fullest appreciation of our part in our country's progress and development. So closely are our interests allied to those of our sister States that by their prosperity in a large degree do we measure ours. More necessary is it then that as an example to other States as well as for our own happiness we should solve wisely the growing problems of statecraft and become a leader in genuine political advancement.

The rapidly changing conditions of industrial, business and social life present new questions for solution and demand thorough study by the most competent minds. New conditions demand new laws and with increasing population and

multiplying interests the law-making and administrative functions of government must ever be expanding centres of influence for good or bad; but danger only lies in forsaking those simple but vital principles which make up the theory of American government and furnish the best guarantees of liberty.

Fellow citizens, and you especially who are to be associated with me in official place, I ask your generous assistance in giving to the people plain, honest and simple government, relieving them of all unequal and unnecessary burdens whether of taxation or of restrictive and class legislation, encouraging the spread of education, extending wisely the powers of municipalities, limiting discreetly the encroachments of State authority, and while assuring to every citizen the fullest protection of our laws, yet expecting from him in return the heartiest support of enlightened patriotism. Let us join in fostering healthy pride of our State, in advancing its prosperity, in augmenting its commanding influence, and by sympathetic cooperation between the people and their public servants present a worthy model of government to our sister States.

ANNUAL MESSAGE.

STATE OF NEW YORK.

Executive Chamber,

Albany, January 5, 1892.

TO THE LEGISLATURE:

A sense of diffidence must always animate the official communications of the Executive to the law-making body. His office is indeed a co-ordinate branch of the government, and is invested by the Constitution with powers equal or superior in scope to those of the Legislature, yet his recommendations and suggestions, however closely they may be made to reflect the sentiments and wishes of a majority of the people, are but the utterances of a single officer addressed to a vastly greater number of the people's representatives. Doubly sensitive must the Executive be, therefore, when for the first time in his official capacity, and almost as the first of his official acts, he complies with the constitutional obligation to communicate to the Legislature "the condition of the State, and recommend such matters to them as he shall judge expedient."

It is a reason for great satisfaction and encouragement, however, that in my discharge of this first important duty I am able to address my suggestions to a Legislature in political accord with the Executive. For the first time in eight years both branches of the Legislature and the Executive represent the same political ideas and a majority of the popular vote.

This fact gives assurance that desired legislation, long delayed by reason of conflict between Legislature and Executive, may be speedily and wisely enacted, and that Legislature and Executive may work in harmony for the best interests of the people.

I congratulate you also that the new year which opens coincidently with the convening of your honorable body, finds the State in prosperous condition and the people happy and contented. An overruling Providence has been even more bountiful than usual in His dispensation of blessings during the year just ended. The products of agriculture have been large, and industry and commerce have been active and have yielded good returns. The State is practically out of debt, State taxes are low, and the government has been honestly and well administered. Let it be our joint endeavor to maintain these conditions of prosperity, so far as may be in our power—to legislate wisely and impartially, and to give the people those measures of relief which they properly desire and to which they are justly entitled.

ENUMERATION AND APPORTIONMENT.

The paramount duty before the Legislature is to provide for an enumeration of the inhabitants of the State, preparatory to a reapportionment of Senate and Assembly districts.

If there was needed heretofore any direct proof of the injustice of the present legislative apportionment, it is now furnished by the returns of the Federal census of 1890. Defective as that enumeration was, especially in the city of New York, it shows an increase of population in the State since 1875 of nearly 1,300,000 inhabitants, or twenty-seven per cent. Yet the same apportionment now exists for the 5,997,853 inhabitants of the State, as was established in 1879 for the 4,698,958 persons enumerated in the census of 1875. If the

apportionment based upon that census was a fair one, it is certainly a very antiquated and unfair ratio of representation now when applied to the present population.

There have been great changes of population in the State since 1875. In a third of the counties there has been an actual decrease in the number of inhabitants. This is true of several counties which are now allotted more than one member of Assembly each, namely, Oswego, St. Lawrence, Ulster, Washington and Wayne. In other counties, and especially in those which contain the largest cities of the State, the increase in population is very noticeable. In Erie county it is sixty-three per cent; in Kings it is sixty-four and a half per cent; in Queens it is fifty-two per cent; in New York, forty-five per cent; in Westchester, forty-one per cent; and in Monroe, forty per cent. When it is considered that the total increase in the State is twenty-seven per cent, these figures show that there has been a radical readjustment of population since 1875, and that the apportionment garment which may have been a very good fit then is now very much of a misfit.

The denial of proper representation is a discrimination against these growing sections of the State. It tends to dwarf their prosperity and to shackle their liberties by narrow and illiberal legislation. It gives undue legislative influence to communities where progress seems stayed and population is diminishing. It retards municipal reform and encourages meddlesome interference with the affairs of our large cities. It permits taxation without representation. It has authorized a minority of the people to make laws not desired by the popular majority, and it has continually nullified the expression of public sentiment pronounced emphatically at the polls in each election of State officers. A popular majority of nearly 50,000 this year is barely able to control the Legislature by reason of the inequitable apportionment.

In Kings county 69,000 people on the average are represented by one member of Assembly, while in Jefferson county the same number of persons are represented by two members. In New York 190,000 people elect three representatives to the Assembly, while in St. Lawrence county 85,000 people have the same voice in legislative action. The 45,000 people in Washington county have two members of Assembly, while the 322,000 in Erie county have but five; that is, the ratio in Washington county is 1 to 22,000, while in Erie it is 1 to 64,000. Cattaraugus county, with 60,000 inhabitants, has two members of Assembly, while Monroe county with three times as many inhabitants has only one additional Assemblyman. It was estimated last year by the special committee on enumeration and apportionment, appointed by the Assembly, that if the 128 members of Assembly were apportioned among the counties on the basis of the recent Federal enumeration, Erie county would have seven members instead of five, Monroe would have four instead of three, Kings would have eighteen instead of twelve and New York would have thirty-three instead of twenty-four. If these figures be accurate the injustice of depriving these counties of their rightful representation can not be disputed.

The mere statement of this evil would seem to be sufficient for its immediate correction. So far as I am aware, the present apportionment is nowhere defended from the charge of unfairness. The only defense which has been offered for the failure to take the preliminary step for its correction, viz., the passage of an enumeration bill, was that offered in the minority report of the Assembly committee last year, which was to the effect that no enumeration bill having been enacted in 1885, the Legislature is therefore absolved from further responsibility for the performance of this obligation until 1895. Such a construction however is too preposterous to argue. The enact-

ment of the present legislative apportionment and the present congressional apportionment were both violations of the Constitution and therefore void if that construction is the true one; for the former was not enacted till 1879, four years after the enumeration was taken, and the latter not till 1883, three years after the Federal enumeration. It is respectfully suggested that if the Legislature were still disposed to maintain this strained construction of the constitutional obligation, it must in consistency regard the apportionments of 1879 and 1883 as void and the election of its own members without authority of law.

So untenable is such a position that one is forced to the conclusion that the refusal to provide for rightful representation has been based upon the unworthy motive of seeking to retain partisan advantage. The political complexion of the present Legislature, however, removes the possibility of such a motive as an obstacle, and, I hope, insures the prompt passage of an enumeration bill, preparatory to a reapportionment of Senate and Assembly districts.

CONGRESSIONAL REAPPORTIONMENT.

Equally incumbent upon the Legislature is the duty to reapportion the congressional districts of the State. Congress having apportioned representatives among the States in proportion to the number of their inhabitants as shown by the Federal census of 1890, it devolves upon the Legislature of each State to so arrange the districts within its borders that each shall contain "as nearly as practicable an equal number of inhabitants." There is no increase in the number of representatives allotted to the State of New York. Notwithstanding an increase of nearly a million in the population since 1880, our State has only the same representation in Congress and in the electoral college that she was given ten years ago. The injustice of that action I shall not discuss

here, but permit me to suggest that it should not be aggravated by the refusal now on the part of the Legislature to equalize the population in the thirty-four districts. As they stand now they are grossly unequal in population. One contains 125,000 inhabitants, another 255,000 — a difference of 130,000. With a total population of 5,997,853 in the State, each district ought to contain about 176,000 inhabitants. The following table shows how wide they are of that figure :

District.	Population.
First	242,000
Second.....	219,600
Third	197,000
Fourth.....	174,200
Fifth.....	216,800
Sixth	Not readily accessible owing to fact that United States census is published by wards, not by Assembly districts in New York city.
Seventh	
Eighth	
Ninth	
Tenth	
Eleventh	
Twelfth	
Thirteenth	
Fourteenth	
Fifteenth...	163,900
Sixteenth.....	138,700
Seventeenth	163,900
Eighteenth	170,100
Nineteenth	164,000
Twentieth	175,200
Twenty-first	145,300
Twenty-second	153,800
Twenty-third	152,700
Twenty-fourth	125,500
Twenty-fifth	174,800
Twenty-sixth	173,300
Twenty-seventh.....	186,800
Twenty-eighth	126,000
Twenty-ninth.....	150,800
Thirtieth	189,000
Thirty-first.....	132,000
Thirty-second.....	255,000
Thirty-third	129,000
Thirty-fourth	179,200

Nine of the present districts do not come within 25,000 of the proper ratio, and two do not come within 50,000. Eighteen are more than 10,000 out of the way, and not over five of the twenty-five districts here given are within 5,000 of the ratio.

These figures show a broad field for equalization. Equal districts are desirable as offering the most actual representation, and the maintenance of New York's influence in Congress depends largely upon how closely her congressmen represent the sentiments of her people.

Moreover if the State is not redistricted by the present Legislature the existing districts must continue to send representatives until at least the beginning of the Fifty-fourth Congress in 1895, for the next general election of congressmen after next November is in 1894. The necessity is greater, therefore, for the immediate action of the Legislature, for the increasing population only increases the inequality of the present districts, and if no reapportionment is made this year the present districts will be grotesque in their demarkations from the true ratio long before 1895.

STATE FINANCES.

The State debt has been reduced during the past fiscal year by the payment of \$100,000 Niagara Reservation bonds, and \$1,936,650 canal debt.

On the 30th of September, 1891, the total funded debt was \$2,927,654.87 as follows:

General Fund, Indian annuities	\$122,694 87
Canal debt	2,404,960 00
Niagara Reservation bonds	400,000 00
	\$2,927,654 87
Aggregate Sinking Fund.....	1,913,030 99
Total debt unprovided for, not yet due	<u>\$1,014,623 88</u>

This debt of \$1,014,623.88 unprovided for is made up as follows :

Canal	\$491,929 01
Niagara Reservation	400,000 00
General Fund, Indian annuities.	<u>122,694 87</u>

Part of the canal debt matures on October 1 next and the remainder on October 1, 1893. The balance of \$491,929.01 now unprovided for will not have to be paid by tax, the Comptroller estimates, as there is expected to be a surplus in the canal fund revenue to meet it. If that prediction be well founded the State has levied its last tax for the payment of the canal debt.

The Niagara Park debt matures at the rate of \$100,000 each year, but its bonds are held by the State and can be paid at any time from the surplus now in the treasury if the Legislature so direct. They draw interest at the rate of two and one-half per cent per annum.

The principal of the General Fund debt for Indian annuities, \$122,694.87, is an imaginary indebtedness and does not actually exist, the interest on about that sum being annually appropriated by the Legislature as annuities to the Indians.

With this explanation, therefore, the State debt appears to be practically wiped out.

This is a particularly gratifying showing and very creditable to the management of the State's finances. It could not have been accomplished without fidelity to public interests, honesty, and the prudent handling of public funds. Ten years ago the State debt was upwards of \$9,000,000.

SOURCES OF REVENUE.

The larger part of the State's revenue still comes from direct taxation of personal and real property; yet the rate of tax for the current fiscal year is the lowest since 1855, being

one and three-eighths mills, of which one mill is for schools and three-eighths of a mill for canal debt and maintenance. Upon the present assessed valuation this tax will yield \$5,196,666.40.

There is no direct tax this year for the general expenses of government — sufficient income for this purpose being expected from the indirect sources of revenue.

These indirect tax laws yielded the following sums during the last fiscal year:

From notaries' fees	\$22,705 50
From the pool tax	30,435 81
From the corporation tax	1,350,338 53
From the collateral inheritance tax	890,267 54
From the special tax on organization of corporations	185,536 58

The receipts from the last two tax laws were somewhat less than for the previous year. The succession tax imposed by the last Legislature is expected to increase largely the indirect revenues.

If it continues to be the policy of the State to widen the field of indirect taxation, the time is close at hand when, with rigid economy in appropriation, all the expenses of the State may be met without the imposition of any general State tax. Indirect tax laws, however, should be based upon broad principles, and should be carefully framed so as not to unnecessarily or unwisely hamper individual or corporate enterprise. Radical legislation in that direction may prove a public injury rather than a public benefit. Indirect taxation moreover is a source of danger, for when taxes are least felt the people's representatives are more generous with public money and are inclined toward extravagance in appropriation.

One method of increasing the indirect revenues of the State, namely, that of taxing the bonded indebtedness of corporations, has been repeatedly suggested for the consideration of

the Legislature by the Comptroller, and by my predecessor, and I submit it again to your attention. It is estimated that a moderate tax of this nature upon each per centum of interest paid would yield an annual revenue of \$1,000,000 to the treasury. A bill based upon this suggestion passed the Assembly last year, but failed in the Senate.

The criticism has been frequently made that part of the recent corporate legislation of our State has been so harsh that corporations are being organized under the laws of New Jersey which, under less severe requirements, would organize under our laws. What real basis such criticism has, I do not know. Our corporation laws should be strict enough for the protection of the public, but they should not tend to discourage the investment of money in worthy enterprises and industries within our borders. I suggest that the Legislature authorize a joint committee of its members to investigate this subject, and, if possible, to procure uniformity of legislation bearing upon it in neighboring States.

ECONOMY IN THE PUBLIC EXPENSE.

In these times when Federal and local taxation bears heavily upon the people, the Legislature should avoid unnecessary or excessive appropriations of public money and demand the strictest economy consistent with good administration in the various departments and bureaus of the public service. The growth of the State necessarily increases the cost of its government, but I question whether the cost has not been increasing of late years at a much more rapid rate than the growth of the State would justify. At my request I have been furnished by the Comptroller with a statement of the permanent commissions and bureaus which have been established by the Legislature since 1879, together with the annual cost of their maintenance. The figures are very suggestive, for they indi-

cate a very remarkable extension of governmental power and jurisdiction, and an equally remarkable increase in public expenditures. From the statistics furnished me I present for your consideration the following table of new permanent commissions, offices and bureaus established since 1879, the year of their establishment, and the expenditures on their account during the first year of their establishment and during the fiscal year recently ended :

OFFICE.	When established.	Cost for first full year.	Cost in 1891.
Game and Fish Protectors	1880	\$5,536 82	\$16,409 04
Board of Health.....	1880	11,700 77	28,832 22
Agricultural Experiment Station	1881	20,000 00	40,000 00
Bureau of Labor Statistics	1883	7,090 20	35,506 32
Civil Service Commission	1883	14,331 41	15,875 15
Public Buildings	1883	124,774 72	166,850 29
Niagara Reservation	1883	3,103 44	25,240 62
Railroad Commission	1883	66,225 37	67,606 66
Board of Claims.....	1884	31,958 15	24,116 78
Dairy Commission	1884	41,543 37	91,842 58
Forest Commission	1884	2,954 22	58,478 55
Board of Arbitration	1886	14,552 83	15,093 91
Factory Inspector.....	1886	9,400 75	30,053 80
Oyster Protector.....	1886	1,443 24	1,662 34
Electrical Subway Commission.....	1888	71,851 57	33,393 18
Weather Bureau	1889	3,935 48	3 957 49
Commission in Lunacy.....	1889	16,146 85	20,895 33
Farmers' Institute ..	1889	8,374 11	11,899 15
Court of Appeals, 2d Division.....	1889	97,200 00	96,520 00
Board of Port Wardens	1891		1,475 30
State Care of Insane	1891		76,619 56

This table includes some commissions whose expenses are not paid by the State, and some which have been created to take the place of former offices or boards, but it indicates with sufficient emphasis the steady widening of governmental jurisdiction and the steady increase of cost to the public. The yearly increase is shown by the following table :

1880	\$3,577 27
1881	18,835 40
1882	67,444 00
1883	128,568 78
1884	306,942 61
1885	376,247 92
1886	420,210 59
1887 ..	480,185 17
1888	586,347 23
1889	688,995 30
1890	740,442 45
1891	842,328 27
Total	<u>\$4,640,124 99</u>

This showing ought to arrest the careful attention of the Legislature. Undoubtedly, a large part of this legislation has been wise and the commissions or bureaus created have accomplished many beneficial results, but some of them, I fear, have failed to justify the expenditure on their behalf and the tendency in nearly all of them has been toward constantly increasing expenditures.

The closest scrutiny should be applied to every demand for the creation of any additional office, and it should not receive legislative sanction until its need is established beyond question. Useless offices should be abolished, and in all, close economy should be encouraged. Lavish use of public money is a dangerous foe to public morals and to official administration. The affairs of the government should be managed with the same honesty, economy and zeal as characterize the management of private business.

A CONSTITUTIONAL CONVENTION.

In 1886 the people of the State voted emphatically for a convention to revise the Constitution. The Legislature has yet failed to provide for such a convention. I am not aware that public opinion has changed with reference to the desira-

bility of a revision of the Constitution, and I respectfully commend the subject to the further consideration of the Legislature. Efforts are continually being made in the Legislature to submit proposed amendments to the people, and while that method of constitutional revision has the merit of conservatism, it is believed to be a patchwork method not desired by the people and not yielding the best results. A convention composed of able men and thoroughly representative would undoubtedly better subserve the public interests and present for approval a more comprehensive and practical scheme of amendments. The disinclination of the Legislature to indorse the revision of the judiciary article recently proposed by the Constitutional Commission of 1890 would seem to make a constitutional convention more necessary than ever, and I trust the Legislature at its present session will make the proper provision for one.

EDUCATION AND THE STATE.

Reports received by the Superintendent of Public Instruction indicate that the number of children in the State of school age (*i. e.*, between 5 and 21 years) in 1891 was 1,821,773. The number of children attending the common schools in the same year was 1,054,044. More than 767,000 children of school age therefore were either not in school at all, or received instruction elsewhere than at the public schools. The proportion of public school children in 1891 consequently was about fifty-seven per cent of the total number between the ages of 5 and 21. The total cost of supplying this education to somewhat more than half the children of school age in the State was \$20,269,118.29. The greater part of this amount was raised by State and local taxation.

Considered with other statistics these figures suggest some serious reflections. In 1851, forty years ago, seventy-five per

cent of the entire school population attended the public schools. During those forty years the State has done much to improve and strengthen its common schools, to increase their efficiency and to compel attendance, yet during all that time there has been a steady decrease of attendance in proportion to the school population, and nearly twenty per cent fewer children, proportionately, attend the public schools now than attended them forty years ago. In the same interval the expense has increased from \$1,884,826 to \$20,269,118. For each pupil who attended the public schools any part of the year in 1851 the average cost was \$2.26; in 1891 it was \$19.22 — the increase being 750 per cent.

If these figures are accurate, and they are based upon official statements and reports, they are startlingly suggestive. If true they mean retrograding influence and greatly increasing extravagance in management. Much of the increased cost per capita is undoubtedly explained by the erection of new school buildings, possessing greater facilities, better accommodations and more attractive surroundings. But the surprising thing is that this sort of expenditure has not increased the proportion of children who avail themselves of these privileges, but has been accompanied by an actual diminution. Should the same ratio of decrease in numbers and the same ratio of increase in expense be maintained, the State in a few years will be actually taxing its citizens many millions of dollars each year — more than is needed now for all other purposes of government — to supply an education to a minority of its children.

This is neither democratic nor right. The State must, for its own protection and interests, see that the opportunities for a common school education are offered to its children, but it will not be justified in raising large sums of money by taxation for this purpose without accomplishing a corresponding

amount of good. If there is waste in the present lavish expenditure it should be discovered and checked. If the present compulsory education law is not effective, and the evidence is clear that it is not, it should be strengthened by wise amendment. Certainly the State can not afford to permit thousands of its children to grow up in ignorance, only to increase that population which crowds our jails, our reformatories and our poor-houses, and menaces the integrity of our public service and our institutions with the weapon of an unintelligent ballot.

No one believes more thoroughly in our common school system than do I. It is the great hopper into which the untrained juvenile minds of Irish, English, Italian, German, Swedish, Bohemian or American parentage, with their hereditary ideas and tendencies, are tumbled together and shaken up to form the substantial qualification of the American citizen. It is to the American ideas implanted in our youth in the common schools that our country owes her prosperity in the past, and must look for the preservation of her institutions in the future. Every school-house may be made a stronghold of defense against the spread of socialistic and un-American ideas. No more worthy task therefore can be undertaken by the Legislature than to strengthen and bulwark our common schools and make them centers of widening, rather than diminishing influence. It will first be necessary, however, to ascertain the causes of the present unwelcome tendencies which statistical comparisons demonstrate. It may be found that much of the proportionate falling off in general attendance (aside from that which is explained by the increase of private schools), and certainly the increase in expenditure, arise from the modern tendency to so enlarge the curriculum of the public schools that they attempt too much and involve the State beyond its proper measure of responsibility. Cer-

tainly advocates of higher education at State expense can expect little sympathy from lawmakers, when the State, even with liberal appropriations, seems unable to compel merely rudimentary instruction and thousands of children are growing up without any education whatsoever.

UNIVERSITY EXTENSION.

Within the past two years the movement known as "University Extension," has assumed considerable importance and great popularity in this country. Its nature I understand to be the bringing of means of culture and higher education within the reach of persons who are unable to get a collegiate or university education; or, as it is more authoritatively described by one of its prominent supporters, "the purpose of the university extension movement is to provide a means of higher education for persons of all classes and of both sexes engaged in the regular occupations of life." Its methods are by lectures, class exercises and examinations, conducted in various "centers" under the supervision of a central head.

The movement has caused great enthusiasm in England and in this country, and seems to have accomplished much good in stimulating intellectual tastes among the people. It has received the cordial support of most leading educators, and the generous encouragement of press and pulpit. While those who expect it when fully developed to fill the place of actual training in colleges and universities are quite likely to be disappointed, there is every reason for believing that it will raise the intellectual standard of the people, and diffuse more broadly the benefits of higher education. With such purposes and aims, every good citizen must be in cordial sympathy.

Heretofore, however, university extension efforts have been carried on under the supervision of some established university,

or of some association or society organized for the purpose. For instance, in England there have been four great movements—one under the direction of Oxford University, one under that of Cambridge University, one under that of the Victoria University, and the fourth under that of the London Society for the Extension of University Teaching. In the United States successful movements have been associated with the University of Pennsylvania, later with the American Society for the Extension of University Teaching, with Brown University, with the New York and Brooklyn Society for School and University Extension, and with other educational bodies or associations.

For the first time in the history of the movement, however, direct government aid and encouragement have been given, in the statute which was enacted by the last Legislature of this State, authorizing the Regents of the University to act as the central head for the promotion of this work and appropriating \$10,000 for their expenses.

Inasmuch as this work is quite likely to be still further brought to your attention and another appropriation asked for, I do not hesitate to express my opinion that the assumption of this duty by the State was not only unwise in principle, but that if the movement is as successful here as it has been elsewhere it will involve the State in unreasonable obligations and be a constantly increasing object of public expense.

I am aware that it has been the policy of the State to encourage higher education, and that public moneys have been appropriated for that purpose, but I respectfully submit that before the State should enlarge its field of usefulness in that direction—whatever views we may have as to the propriety of that enlargement—it should first perfect its system of common school education. The already excessive taxation of the

people for this latter purpose and the lamentably inadequate results I have pointed out above.

Reform is necessary before extension.

My fears that the State will eventually find the control and supervision of university extension an enormously expensive undertaking, wrong in principle because it taxes the majority for the benefit of the few, and indefensible as State policy except under the broadest view of public welfare, are based chiefly upon the testimony of those who have been most closely identified with the new movement and upon the tendency of the movement where it has been longest tried. Thus far our State has committed itself merely to the obligation of meeting the expense incurred by the Regents under their granted authority "to co-operate with localities, organizations and associations in this State, where such education shall be desired, and to aid therein by recommending methods therefor, designating suitable persons as instructors, conducting examinations, granting certificates thereupon, and otherwise rendering assistance in such educational work." The statute moreover expressly provides that no part of the appropriation shall be used in paying for the services or expenses of persons designated or appointed as lecturers or instructors, it being the intent of the act that such expenses shall be borne by the localities benefited.

Yet if the State were to stop there the annual expense must be largely in excess of the present appropriation if the movement is to be successful—the tendency of every State commission or bureau being toward an increased expenditure. But will the State stop there? Experience and testimony in England do not give much encouragement of an affirmative answer to this question. Prof. R. G. Moulton, who is a Cambridge University Extension lecturer, and who has been explaining the movement to audiences in this country, says in

a published address: "We in England have tried, have ransacked every form of contrivance, in order to make the movement pay itself—I mean pay itself out of the fees and tickets of the students who attend the lectures; and we have failed." So general has been this failure in England that dependence has been largely had upon private benevolence and endowment, and now the promoters of the movement are turning to the government for financial assistance. In 1889 a national committee was appointed "for obtaining a grant in aid of university extension." In 1890, the Local Taxation act gave permission to English county councils to apply a certain part of the proceeds of a tax on spirits to technical education under university extension courses, and one county alone has this year appropriated £1,500 for this purpose. Even this indirect government assistance has not satisfied the friends of the movement, however, and in June last, at a meeting attended by many prominent educators and others, it was resolved to petition for a government grant to properly organized local bodies for the conduct of university extension teaching. This direct grant is desired not merely to pay supervisory expenses, but to meet part of the cost of teaching. There seems every possibility that the government in England will soon be bearing the greater part of the expense of this movement.

Is the prospect any better for abstention from seeking a larger share of government aid in this State—especially when the entering wedge has already been inserted?

Clearly it is not the intention of the promoters of university extension in this country to make it "pay itself." The American Society for the Extension of University Teaching says: "No great work in education along higher lines has ever been self-sustaining, in the ordinary sense of that term, and the society will be obliged to rely on the public spirit of

all citizens, rich and poor, for funds to carry on the work." A writer in the *Popular Science Monthly* for November last, after discussing the cost of the movement, says: "The possibility of enlisting Government aid opens a larger question. University extension is a national movement which is intended to reach all classes and to promote the most vital interests of the nation. It has then as large a claim upon the national pocket-book as any interest which the Government can recognize." Even the Regents of the University, in their extension bulletin, invite contributions to the movement, saying: "While the feeling seems to have generally prevailed that the funds of the State, raised by taxation, should not be used for the expenses of local work, however beneficent — and in that spirit the legislative appropriation in behalf of university extension was limited to general supervisory uses; still, the cause of public education could be greatly advanced if it were possible to supplement and aid the work with judicious appropriations of money in the poorer and sparsely populated localities."

With such conditions prevailing, further recourse to State assistance would not be unnatural, and I submit the question to your practical judgment whether it is wise for the State to continue to bear this questionable, and in the future, perhaps, awkward responsibility.

EXECUTIONS BY ELECTRICITY.

During the past year and a half there have been several executions of convicts sentenced to death in the State prisons, under the provisions of what is popularly known as the "Electrical Execution" act, passed in 1888. The results of those executions have been regarded by expert witnesses as a satisfactory vindication of the new method of inflicting the death penalty, furnishing, it is said, a speedy and painless death, and

being less revolting in its operation than was the old method of hanging.

There is one feature of the law, however, which is of doubtful constitutionality and of questionable propriety. I refer to that provision which prohibits the newspaper publication of an account of the details of the execution. The exact reading of the law upon this point is as follows :

"No account of the details of any such execution, beyond the statement of the fact that such convict was on the day in question duly executed according to law, at the prison, shall be published in any newspaper. Any person who shall violate or omit to comply with any provision of this section shall be guilty of a misdemeanor."

This provision of law has been generally disregarded by the newspaper press. In my opinion, it was unwisely made a part of the statute. The adoption of so novel a method for inflicting the death penalty as electricity naturally excited world-wide attention and aroused both popular and scientific interest. There was in the beginning some question of its success. The public curiosity to know the actual results of the experiment was intense. It did not spring from morbidity, but from wholesome interest. The feeling was general that so radical and important a departure from existing methods should be carefully studied and the facts relating thereto truthfully stated. There is a popular aversion to secret methods of performing public duties.

In response to this sentiment the newspapers, at the time of the various executions, contained long and graphic accounts of what purported to be accurate descriptions of the details of the executions. If the descriptions were accurate the law was deliberately violated. If they were inaccurate the public was grossly imposed upon. In any case this provision of the law is not sustained by public sentiment and is practically a dead letter.

I therefore recommend its repeal. I have no sympathy with that morbid taste which yearns for revolting details of human suffering and misfortune, and would make heroes out of criminals, but I recognize a legitimate public interest in the adoption and trial of this new method of execution, and I would not shut out from the people the opportunity, under proper restrictions, of securing the most unbiased information regarding its operation.

Other legislation has also been suggested to facilitate the operation of the statute providing for electrical executions. The infliction of death by electricity requires expert supervision and perfect appliances. These, it has been thought, are not always easily attained in the State prisons. Besides, the cost of establishing and maintaining the necessary apparatus in each prison is considerable and should be avoided if practicable. I would respectfully invite your attention, therefore, to the recommendation of the Superintendent of Prisons, that the statute be amended so as to provide for but one plant, in a building especially constructed for the purpose, and containing the necessary rooms and apparatus, under the charge of a competent and trustworthy electrician. My own opinion is that, should it be deemed advisable to adopt this suggestion, the plant should be connected with one of the largest and most accessible prisons, rather than established separately. This would be more practicable and more economical.

THE WORLD'S FAIR.

The Legislature has yet made no provision for the proper representation of the State at the World's Fair in Chicago next year. This should be one of the first acts of your honorable body. The time is growing short for the erection of a suitable building for the exhibition of the State's interests, and if New York is to be represented commensurately with its

commanding position and great resources speedy legislative action is necessary. This duty the State owes to its commercial and industrial interests. The provision for State representation and participation should be liberal, but not extravagant. Our citizens will not begrudge an appropriation of public money for this purpose which will enable the State to be properly represented, but they will disapprove any extravagant expenditure, and will insist that whatever appropriation is granted shall be wisely expended under competent direction.

THE STATE PRISONS.

The highest number of convicts in the State prisons during the fiscal year 1891 was 3,913, an increase of 208 over the highest number during the previous year. The three prisons have but 3,737 cells and it has therefore been necessary in many instances to place two convicts in one cell. The need of more prison room is urgent and provision for it should be made by the Legislature.

The number of industries in operation in the three prisons during the year was twenty-two, and the number of men employed 2,158.

The financial results in the prisons for the last fiscal year show a deficiency of \$201,645.23, an increase over the preceding year of \$42,629.59. This increase is explained by the losses by fire at Auburn and Clinton prisons, amounting to \$37,697.60, the increased cost of maintenance, \$30,107.33; and the falling off of \$80,012.19 in the statement of manufacturing earnings at Sing Sing, owing to the reduction in the appraised value of the assets of the industries made when a change of wardens took place in April last. The total earnings were \$19,461.52 greater than those of the previous year.

The earnings and expenditures for care and maintenance, were divided as follows among the three prisons :

Sing Sing.

Expenditures for care and maintenance.....	\$189,229 31
Miscellaneous earnings.....	\$8,306 88
Manufacturing earnings	64,316 40
	<u>72,623 28</u>
Deficiency.....	<u><u>\$116,606 03</u></u>

Auburn.

Expenditures for care and maintenance.....	\$139,116 38
Miscellaneous earnings.....	\$5,128 28
Manufacturing earnings	\$114,945 63
Less loss by fire	23,795 12
	<u>91,150 51</u>
	<u>96,278 79</u>
Deficiency	<u><u>\$42,837 59</u></u>

Clinton.

Expenditures for care and maintenance.....	\$130,315 29
Add loss by fire	5,713 82
	<u>\$136,029 11</u>
Miscellaneous earnings.	\$5,951 39
Manufacturing earnings	\$96,064 77
Less loss by fire	8,188 66
	<u>87,876 11</u>
	<u>93,827 50</u>
Deficiency	<u><u>\$42,201 61</u></u>
Total deficiency in the three State prisons.....	<u><u>\$201,645 23</u></u>

THE REVISION OF THE STATUTES.

Commissioners of statutory revision were appointed under chapter 289 of the Laws of 1889, to report to the Legislature a revision of the general laws on certain specified topics. In pursuance of such authority the commissioners reported to the Legislature of 1890 bills which were passed with slight amendments and became laws known as the Condemnation Law, General Corporation Law, the Stock Corporation Law, the

Railroad Law, the Business Corporations Law, the Highway Law and the Town Law. In accordance with the recommendation of the commissioners these laws of 1890 did not take effect until March and May, 1891. The objects of such postponement were first, that the people might become familiar with all changes in form or substance of the laws before they should take effect; and, second, that any amendments thereby found desirable might be enacted by the Legislature of 1891, in time to take effect simultaneously with the original laws.

During the interval between the legislative sessions of 1890 and 1891, the commissioners invited suggestions by way of criticism and amendment of the Laws of 1890, granted hearings to all parties desiring to propose such suggestions in person, and reported to the Legislature of 1891 the series of amendments, including the independent legislation of 1890, upon the same topics, and such other changes as were deemed advisable. Such amendments were first introduced in the Assembly of 1891, and having passed that house, with substantial unanimity, were favorably reported by the proper Senate committee, and were progressing in regular order, without opposition, in the Senate until the "dead-lock" in that body prevented their enactment.

The commissioners in their first report to the Legislature, in 1890, recommended a systematic plan for the revision of all the general laws of the State outside the Codes of Civil and Criminal Procedure and the Penal Code. That Legislature expressed its approval of such plan by chapter 313 of the Laws of 1890, making suitable appropriation for the continuance of the work of the commissioners in accordance with their proposed plan and requiring them to report the completion of their work to the Legislature of 1892. Under this broader authority, the commissioners reported a number of bills upon new topics to the Legislature of 1891, among the

more important of which were revisions of the banking and insurance laws which were compiled with the assistance and approval of the superintendents of insurance and banks. The new bills so reported with slight amendments in Assembly committees passed the Assembly without material opposition, and were favorably reported by the proper Senate committees, but these bills also were blocked by the Senate dead lock.

In accordance with the requirements of the act of 1890, it is expected that the commissioners of statutory revision will report the completion of their work to the present Legislature, including again the amendments to the Laws of 1890, and the additional bills reported by them to the Legislature of 1891, as well as such other bills as are necessary to effect a complete revision of all the general statutes of the State.

The necessity of such a revision was recognized by the people so long ago as in the Constitution of 1846, and has been frequently reaffirmed since by the appointment of various commissions therefor, which have expired without the fulfillment of their purpose. While all will readily concede the necessity of the revision, it is also important that it be well done. The reports of the commissioners should be closely scrutinized by the Legislature, with whom the chief responsibility for the revision should rest. It is hoped that the present Legislature, with the aid of the commissioners, may finally effect the complete revision of the statutes which the Constitution of 1846 contemplated would be accomplished within a few years thereafter.

THE NATIONAL GUARD.

The National Guard numbers, according to the latest reports, about 13,600 officers and enlisted men, and its condition is officially reported as satisfactory in every way. Knowing how essential the existence of a well-disciplined military force

is to the State, and personally taking great interest in the guard, I shall make it my duty to see that its present excellent state of discipline and efficiency is maintained, and I recommend such legislative measures as may be necessary to its advancement and improvement.

MUNICIPAL GOVERNMENT.

Evils of municipal government are not more numerous than proposed remedies. It has seemed to me a curious instance of vague endeavor that political writers so often grope about in the dark realm of theory to construct an artificial system of municipal administration out of Utopian materials, when more practical methods and more substantial materials lie close at hand. These very good and otherwise quite intelligent citizens are even occasionally found declaring that the people of large cities are unable to govern themselves, and that it is unwise to trust them with too great powers and responsibilities.

Yet the greatest abuses in municipal administration in our State have occurred when the people had the least voice in the management of their municipal affairs.

One of the cardinal principles of our American political system is self-government. But that principle which our forefathers carefully worked out in theory, is yet only in an early stage of development. We have been extending and elaborating its application through a century, but its evolution is far from complete. I believe its thorough establishment is the prerequisite to successful municipal reform. Complete local self-government in exclusively local affairs will solve many existing evils and prevent others which are now threatening.

The political tendency in this State since early in the present century has been in the direction of local self-government — a gradual evolution of the American theory. Local officers with merely local duties, originally appointed by State authority,

are now chosen by the people of their localities, and in various ways the powers of subdivisions of the State, like counties, and again the subdivisions of the counties, like towns and cities and villages, have been amplified and increased. Local self-government now finds practical indorsement in both the letter and the spirit of our Constitution, and in spite of attempts to destroy or hamper it continues to commend itself as the only practical kind of local administrative reform.

The growth of villages and cities emphasizes the importance of this question of State policy. Nearly two-thirds of the people of the State now live in villages and cities of 4,000 or more inhabitants. In 1880 there were sixty municipalities of 4,000 inhabitants or more, with an aggregate population of 2,743,632; in 1890 there were eighty-four, with an aggregate population of 3,805,577. The increasing segregation of people presents new questions of municipal administration which the people themselves are more capable of deciding wisely than an irresponsible body elsewhere.

To deny them that right is a species of tyranny which is not only unjustifiable in principle, but often imposes minority rule upon a majority and leads the way to great abuses, against which local protests are vain.

Undoubtedly proper changes in our Constitution would emphasize and strengthen this tendency toward the establishment of Home Rule, but it is not necessary to wait for that somewhat slow process. The Legislature has in its own hands the solution of the greater part of the municipal problem. It can wisely extend and enlarge the functions and powers of local authorities. But above all it can refrain from unnecessary interference with the affairs of municipalities. The willingness of the Legislature in times past to assume the authority of boards of aldermen and mayors and boards of supervisors

has done more harm than good, and no greater benefit can the Legislature give our cities than to leave them to manage their own affairs in their own way. The Legislature should be content with supplying the framework of municipal government, wisely guarded against possible abuses, and within that framework the properly constituted local authorities should have sole charge of local administration. Where responsibility is fixed, remedy for abuses is easy.

I am not afraid to trust the people, but if the people of a municipality choose to endure misgovernment rather than to correct it, I am not aware that under our theory of government the State should attempt the correction by assuming municipal authority and functions. The State's interference may occasionally be wholesome, but it is more likely to be pernicious.

STATE CARE OF THE INSANE.

The State is now practically committed to the policy of assuming the entire care of its indigent and insane poor. Recent legislation, enacted after much public exposure and discussion of the evils of the county system, has definitely established that policy and the work of carrying it out is now going on. The last Legislature made a liberal appropriation for the erection of additional buildings on the grounds of the State hospitals for the accommodation of the insane then confined in county poor-houses, and during the last fiscal year 833 of the 2,046 dependent insane in the county poor-houses (outside of New York and Kings counties) were transferred to the State hospitals. The transfer of the remaining 1,213 is expected to be accomplished before the end of the current fiscal year.

The act of 1890 provides that when the final transfer is made the care of the insane shall be a State charge, and an

annual appropriation, estimated by the Commission in Lunacy at not to exceed \$1,300,000 for the present number of patients, will be necessary to comply with the provisions of this act. While this seems to be a large amount, it must be remembered that an equal or larger sum is now appropriated for the same purpose with less philanthropic results by the county boards of supervisors. The inauguration of the new policy, while brought about with humane rather than economical motives, is expected to reduce the cost of maintenance by encouraging the establishment of more uniform and systematic management, and by offering better opportunities for economy in the purchase of supplies. Until New York and Kings counties shall avail themselves of the privilege offered by the act of 1890, to turn the care of their insane over to the State, the new policy will afford an annual saving of at least \$700,000 to the remaining fifty-eight counties, for about half the tax will be paid by those two counties, State taxation necessarily being general in its application.

But however the cost is distributed it must be paid by somebody, and the greatest economy consistent with proper administration should be exercised. Extravagant salaries of officers should be cut down and the strictest honesty and prudence should characterize the purchase and use of hospital supplies. Buildings should be comfortable, but not luxurious, and the hospitals should be restricted as far as possible to those for whom they are intended — namely, the public insane.

The State's investments in hospitals now amount to \$9,590,488.97. There are nine separate institutions belonging to the State. In addition, New York county has four asylums for the insane, Kings county has two, and there are seventeen licensed private asylums.

The whole number of insane in custody on October 1, 1891, was 16,623, divided as follows:

State hospitals.....	7,200
Licensed private asylums.....	847
Asylums of New York and Kings counties.....	7,363
County poor-houses, awaiting removal.....	1,213
Total	<u>16,623</u>

This is an increase of 613 in the number of insane over the previous year, although a decrease in the ratio to population.

THE CANALS.

During the past year the work of lengthening the locks upon the canals, which began in 1884 and has been continued each year since, was suspended owing to the failure of the Legislature to grant the annual appropriation for that purpose. This subject will again engage the attention of the Legislature and should be treated with the consideration its importance demands.

The tonnage of the canals during the past year shows a slight decrease, when compared with that for the several years since the canals were made free. The reasons are stated in the report of the Superintendent of Public Works, to which I respectfully refer your attention.

The cost of maintaining and operating the canals has been in the aggregate about the same as for each of the several years previously. For other particulars in regard to these great State waterways, I commend you to the report of the Superintendent of Public Works.

ELECTORAL REFORM.

The decisions of the Court of Appeals in the legislative election cases have sustained the integrity of the recent Ballot Reform act and greatly strengthened its effectiveness as a stat-

ute to enforce the secrecy of the ballot. They have given a needful emphasis to the serious responsibility which that law imposes upon county clerks and other officers, and have placed the force of judicial condemnation upon all attempts to evade the law and afford means of corruption by the identification of ballots and voters. The importance of these decisions in this respect can not be overrated, for had they been less forceful the whole efficiency of the new law as a means to prevent corruption and fraud would have been threatened. But they also serve to call attention to the necessity of guarding by every possible legislative precaution the rigid administration of the law. Wherever the law can be strengthened in this, as well as in other respects, the Legislature should be quick to act.

An honest ballot is the safeguard of our institutions. No public service can be more patriotic than that which seeks to establish it. Any measure properly drawn and not in conflict with the Constitution, which will so bulwark the present law as to make intimidation and bribery impossible, will receive my hearty approval.

REGISTRATION OF ELECTORS.

In 1890 the Ballot Reform act was fitly supplemented by a statute compelling personal annual registration of voters in all the cities of the State—the statute being in this respect merely an extension of the law which had for years applied only to New York and Brooklyn. The efficacy of this statute as a means of discouraging fraudulent voting has been amply demonstrated. I recommend its still further extension to the remainder of the State, so that personal registration each year shall be required of every voter, as prerequisite to his right to cast a ballot. This is necessary to prevent false registration in villages and country districts.

CONTESTED ELECTIONS.

The Legislature of 1891, upon the recommendation of my predecessor, adopted an amendment to the Constitution providing for the judicial determination of contested elections of members of the Legislature. In accordance with constitutional provisions, it will be necessary for this proposed amendment to receive the approval of the present Legislature also before it can be submitted to the people, and I recommend its adoption by your honorable body. Since the last annual election, by the mutual agreement of both parties to the contest, the highest court practically exercised that jurisdiction in several cases and with excellent results. Jurisdiction over the determination of such cases properly belongs to the courts, and I am satisfied that the proposed transfer of it will give general satisfaction when effected.

CONCLUSION.

In conclusion permit me to express the hope, which I am sure will be your own endeavor, that the necessary legislative work of your session may be accomplished expeditiously and wisely. We should not forget that little legislation is more desired by the great majority of citizens than much legislation, that short legislative sessions are more popular than long sessions, and that public legislation is a worthier object of study than private legislation. The people expect the same business-like fidelity to public interests from their law-makers as from those who administer the laws. A clean, industrious, honest and economical Legislature, discharging its duty intelligently and promptly, will justify public confidence and render valuable public service.

ROSWELL P. FLOWER.

APPOINTMENT OF AN EXTRAORDINARY SPECIAL
TERM OF THE SUPREME COURT.

STATE OF NEW YORK.

Executive Chamber.

It appearing to my satisfaction that the public interest requires it;

Therefore, in accordance with the statute in such case made and provided, I do hereby appoint an Extraordinary Special Term of the Supreme Court to be held at the courthouse in the city of Elmira and county of Chemung, on Tuesday, the second day of February, 1892, at ten o'clock in the forenoon of that day, and to continue so long as may be necessary for the disposal of the business that may be brought before it; and I do hereby designate the Honorable WALTER LLOYD SMITH, a Justice of the Supreme Court, to hold the said Extraordinary Special Term of the Supreme Court; and I do further direct that notice of the appointment aforesaid be given by publication of this order once in the Albany Daily Argus, a newspaper published at the city of Albany.

Given under my hand and the privy seal of the State, at the Capitol in the city of Albany, this eleventh day
[L. S.] of January in the year of our Lord one thousand eight hundred and ninety-two.

ROSWELL P. FLOWER.

By the Governor:

T. S. WILLIAMS,

Private Secretary.

MESSAGE ANNOUNCING THE DEATH OF CHIEF
JUDGE RUGER.

STATE OF NEW YORK.

Executive Chamber,

Albany, January 18, 1892.

TO THE LEGISLATURE :

It is my sad duty to announce to the Legislature the death on Thursday last, at his home in Syracuse, of William C. Ruger, the Chief Judge of the Court of Appeals. So short was the period of his illness that the news of his death came with shock to the people of the State, and the sense of public loss in his departure is general and profound.

He gave the ripest years of his life to the service of the State. Born in 1824, thoroughly schooled by an active and successful practice of thirty-seven years in the law, he was elected in 1882, at the age of fifty-eight, to the highest judicial office within the gift of the State. In that distinguished office he fitly rounded out the period of a well-spent life and splendidly supplemented as a judge the well-earned fame which had previously made him one of the foremost lawyers at the bar. His knowledge of the law, the rugged honesty of his convictions, his dignity, independence and great ability gave him universal respect among lawyers as among the people. His judicial opinions have been substantial contributions to our jurisprudence, and the fearlessness which often accompanied their deliverance always challenged general admiration.

His character was that of the best type of judge — steadfastly upright in private life, clear in his convictions of justice and tenacious in their defense, never swayed by popular clamor from his own conception of duty. The unusual distinction which he attained was the just recognition of distin-

guished abilities and earnest purpose, and his public career has won for him an enviable place in the history of the State.

At this time of the people's mourning, which has ceased not with the dead jurist's burial, it is fitting that the Legislature should manifest in appropriate manner their recognition of Judge Ruger's eminent public services. I, therefore, recommend such action on the part of your honorable body as may most fittingly record the esteem and respect in which he was held by the people and express in generous degree the widespread feeling of appreciation of his earnest fidelity to a great public trust.

ROSWELL P. FLOWER.

IN THE MATTER OF CHARGES AGAINST ABRAM
P. VAN ALSTYNE, SUPERINTENDENT OF THE
POOR OF MONTGOMERY COUNTY. — NOTICE
AND SUMMONS.

STATE OF NEW YORK.

Executive Chamber.

In the Matter of the Charges preferred against Abram P. Van Alstyne, Superintendent of the Poor of Montgomery county.

To ABRAM P. VAN ALSTYNE, Superintendent of the Poor of Montgomery county :

You are hereby notified that charges of misconduct and malfeasance in office have been preferred against you by the Board of Supervisors of Montgomery county, through their attorney, Henry V. Borst, of the city of Amsterdam, and a copy of said charges is herewith served upon you.

You are therefore required to show cause why you should not be removed from the office of Superintendent of the Poor

of Montgomery county, and to answer the said charges within eight days after service of this order and a copy of said charges upon you.

In witness whereof I have hereunto signed my hand and affixed the privy seal of the State, at the Capitol in the city of Albany, this twenty-third day of January in the year of our Lord one thousand eight hundred and ninety-two.

ROSWELL P. FLOWER.

By the Governor :

T. S. WILLIAMS,
Private Secretary.

MEMORANDUM FILED WITH SENATE BILL No. 95,
AMENDING THE CHARTER OF ROCHESTER. —
APPROVED.

STATE OF NEW YORK.

Executive Chamber,

Albany, Jan. 29, 1892.

Memorandum filed with Senate bill No. 95, entitled "An act to amend Chapter one hundred and forty-three of the Laws of eighteen hundred and sixty-one, entitled 'An act to amend and consolidate the several acts in relation to the charter of the city of Rochester, as amended by Chapter fourteen of the Laws of eighteen hundred and eighty.' " — Approved.

There seems to be practically no difference of sentiment in the city of Rochester as to the necessity and advisability of increasing the number of wards of that city. The only difference of opinion appears to have arisen over the method of the

division of the city — whether the boundaries of the new wards should be established by the common council or by the Legislature. The charter of Rochester gives no authority to the common council to increase the number of wards, so that object can clearly be accomplished only by legislative act. The question of Home Rule is therefore not involved except as to the attempt on the part of the Legislature to fix the boundaries of the new wards. But this is within the undoubted province of the Legislature, and the bill takes the natural course of amending the city charter, in which the ward limits have always been defined. I perceive nothing radical, therefore, or in violation of the spirit of Home Rule in the features of the bill.

On the contrary I am convinced by the arguments presented at the hearing that the bill is an eminently fair and just one. While the division of the city into new wards undoubtedly creates some confusion and embarrassment, the good effects of the proposed legislation in my opinion outweigh the possible bad effects. The bill will give the city twenty supervisors instead of sixteen, and a predominance of representation therefore in the county board. This is as it should be, for now with a population of 140,000, and paying 72 per cent. of the taxes, the city is represented in the county board of supervisors with only sixteen supervisors, while the remainder of the county, with a population of only 55,000 and paying only 28 per cent. of the taxes, is represented by nineteen supervisors. The injustice of the continuance of such an unbalanced representation must be evident to everybody. Moreover this bill, if the board of supervisors discharges its duties fairly, will give the city of Rochester two out of the three members of Assembly to which the county of Monroe is entitled.

The bill will give the citizens of Rochester a greater voice in the management of their own affairs than they have at present.

The division of wards seems to be so fair politically that neither party will have any particular advantage. It will be the fault of the people themselves if their chosen officers and representatives in the city government are not worthy men. Upon the whole, while there may be defects in the bill, I believe its provisions in the main will be advantageous to the city and I cheerfully give it my approval.

ROSWELL P. FLOWER.

MEMORANDUM FILED WITH ASSEMBLY BILL
No. 72, INCORPORATING THE STATE EXECUTIVE
COMMITTEE OF THE Y. W. C. A.—AP-
PROVED.

STATE OF NEW YORK.

Executive Chamber,

Albany, February 9, 1892.

Memorandum filed with Assembly bill No. 72, entitled "An act to incorporate the State Executive Committee of the Young Women's Christian Association of the State of New York." — Approved.

This bill follows the general lines of Chapter 137 of the Laws of 1886, incorporating the Executive Committee of the Young Men's Christian Association. The general laws now in force do not provide for the incorporation of a committee of this nature elected by other corporations. This law and Chapter 137 of the Laws of 1886 are the only instances of this precise nature which seem to have arisen. It is urged and appears probable that no similar occasion will hereafter arise, and that a general law for future similar cases will not be necessary. In

such exceptional cases special legislation is proper until the necessity of a general law becomes apparent, and I have, therefore, affixed my signature to the bill.

ROSWELL P. FLOWER.

IN THE MATTER OF HENRY G. KILBURN, DISTRICT ATTORNEY OF FRANKLIN COUNTY.—
NOTICE AND SUMMONS.

STATE OF NEW YORK.

Executive Chamber.

In the Matter of the Charges preferred against Henry G. Kilburn, the District Attorney of the County of Franklin.

To HENRY G. KILBURN, *District Attorney of the County of Franklin :*

You are hereby notified that charges of misconduct and malversation in office have been preferred against you by Orrando P. Dexter of the city of New York and a copy of said charges is herewith served upon you.

You are therefore hereby required to show cause why you should not be removed from the office of District Attorney of the county of Franklin and to answer the said charges within eight days after service of this order and a copy of said charges upon you.

In witness whereof I have hereunto signed my name and affixed the privy seal of the State, at the
[L. S.] Capitol in the city of Albany, this tenth day of February, A. D. 1892.

ROSWELL P. FLOWER.

By the Governor:

T. S. WILLIAMS.

Private Secretary.

DESIGNATION OF JUSTICE WRIGHT FOR MADISON CIRCUIT.

STATE OF NEW YORK.

Executive Chamber.

WHEREAS, It appears that the Circuit Court and Court of Oyer and Terminer appointed to be held in and for the county of Madison on the third Monday of January, 1892, and which were necessarily adjourned, are in danger of failing by reason of the illness of the Honorable Gerrit A. Forbes, the Justice of the Supreme Court designated to hold the same;

NOW, THEREFORE, in accordance with the statute in such case made and provided, I do hereby designate and appoint the

Honorable MAURICE L. WRIGHT

a Justice of the Supreme Court, to hold the said Circuit Court and Court of Oyer and Terminer, in the place of the said Honorable Gerrit A. Forbes.

Given under my hand and the privy seal of the State,
at the Capitol in the city of Albany, this twelfth
[L. S.] day of February in the year of our Lord one
thousand eight hundred and ninety-two.

ROSWELL P. FLOWER.

By the Governor:

T. S. WILLIAMS,

Private Secretary.

VETO, SENATE BILL, NOT PRINTED, TO CHANGE
THE NAME OF THE R. P. D. CHURCH OF
CATTSBANE.

STATE OF NEW YORK.

Executive Chamber,

Albany, February 15, 1892.

TO THE SENATE:

Senate bill, not printed, entitled "An act to authorize the correction of the title of the Reformed Protestant Dutch Church of Cattsbane," is herewith returned without approval.

This is a special bill the only object of which is to change the corporate name of "The Reformed Protestant Dutch Church of Cattsbane" to "The Reformed Protestant Dutch Church of Katsbaan." There is already a general law (Laws of 1870, chap. 322, as amended by Laws of 1891, chap. 38) authorizing such a corporation as this to effect a change of name by application to the Supreme Court. In pursuance of such general law this corporation might have applied to the court rather than to the Legislature for the change of name desired. This bill is, therefore, unnecessary special legislation and I cannot, consistently with sound principles of legislation, give it my approval.

ROSWELL P. FLOWER.

VETO, ASSEMBLY BILL No. 200 FOR THE ESTABLISHMENT OF A FISH HATCHERY IN SULLIVAN COUNTY.

STATE OF NEW YORK.

Executive Chamber,

Albany, February 19, 1892.

TO THE ASSEMBLY:

Assembly bill No. 200, entitled "An act to establish a fish hatchery in the county of Sullivan, State of New York," is herewith returned without approval.

I am not convinced that the interests of the State require the establishment of another fish hatchery at the present time. There are now in operation in the State five hatcheries from which the annual distribution of fry and eggs is constantly increasing, aggregating in 1890 nearly 40,000,000, and sufficient, as I am informed, to meet the legitimate demands from the various parts of the State. These hatcheries are well situated geographically through the State, and recent improvements in the transportation of eggs and fry have facilitated greatly the successful stocking of streams and lakes. The hatcheries have by no means reached the limit of their usefulness, and I respectfully suggest that the interests of economy and wise legislation lie rather in the direction of a judicious extension of the plants already in operation than in the establishment of new ones.

I believe it is wise policy for the State to encourage increase of the food supply furnished by its waters, but successful fish propagation requires intelligent supervision and careful management, and the aim of the State should be to secure the highest degree of efficiency and productiveness in the hatcheries now existing before increasing their number. New hatcheries involve extra expense, sometimes without compensating

advantages, and from the information before me I am not persuaded that the appropriation called for by this bill is required at this time.

ROSWELL P. FLOWER.

IN THE MATTER OF HENRY C. KILBURN, DISTRICT ATTORNEY OF FRANKLIN COUNTY.—
APPOINTMENT OF A COMMISSIONER.

STATE OF NEW YORK.

Executive Chamber.

In the Matter of the Charges preferred against Henry C. Kilburn, District Attorney of the county of Franklin.

Charges having been preferred against Henry C. Kilburn, District Attorney of the county of Franklin, by Orrando P. Dexter, of the city of New York, and a copy thereof having been served upon the said District Attorney, with notice to show cause why he should not be removed from such office, and the said Kilburn having filed his answer to the charges preferred herein;

I do hereby appoint ALBERT F. SAUNDERS, of the village of Adams in the county of Jefferson, commissioner to take the testimony and the examination of witnesses as to the truth of said charges and to report the same to me, and also the material facts which he deems to be established by the evidence.

It is hereby further ordered that the said examination before such commissioner proceed with all convenient speed.

Given under my hand and the privy seal of the State,
[L. S.] at the Capitol in the city of Albany, this twenty-fifth day of February, A. D. 1892.

ROSWELL P. FLOWER.

By the Governor:

T. S. WILLIAMS,

Private Secretary.

MEMORANDUM FILED WITH ASSEMBLY BILL
No. 28, TO INCORPORATE THE COMMERCIAL
TRAVELERS' HOME ASSOCIATION OF AMER-
ICA.—APPROVED.

STATE OF NEW YORK.

Executive Chamber,

Albany, February 25, 1892.

Memorandum filed with Assembly bill No. 28, entitled "An act to incorporate 'the Commercial Travelers' Home Association of America.'"—Approved.

The object of this bill is praiseworthy. The only criticism of it is that it is special legislation which ought not to be enacted into law if there is any general law by which the same purposes may be accomplished. Against that criticism, however, it is urged that it is very desirable to postpone the location of the proposed home until after funds have been raised therefor. It is, therefore, difficult to comply with the terms of existing general laws which compel the specification of the county in which the certificate of incorporation should be filed. There are other less serious difficulties in the way of incorporating under general laws for the purposes desired, but sufficiently serious to raise argument as to whether the objects of this bill could be fully accomplished under such general laws. Under the exceptional circumstances of this case, I, therefore, approve the bill.

ROSWELL P. FLOWER.

VETO, ASSEMBLY BILL No. 135, AUTHORIZING
THE TRANSCRIBING OF CERTAIN RECORDS
IN SENECA COUNTY.

STATE OF NEW YORK.

Executive Chamber,

Albany, February 27, 1892.

TO THE ASSEMBLY:

Assembly bill No. 135, entitled "An act authorizing the transcribing of Books A. L. and N. of the records of deeds in the clerk's office of the county of Seneca," is herewith returned without approval.

This bill is unnecessary special legislation. A general law already exists (Laws of 1869, chap. 855, section 7) which provides that the board of supervisors of any county shall cause the county clerk to make copies of records in his office whenever by reason of age, exposure or any casualty the same shall be necessary for the public service, and to cause the clerk to be paid therefor such sum as may be just, not exceeding a sum to be certified by the County Court as reasonable for the service rendered.

ROSWELL P. FLOWER.

MEMORANDUM FILED WITH ASSEMBLY BILL
No. 98 RELATING TO THE POLICE JUSTICE
OF WATERVLIET.—APPROVED.

STATE OF NEW YORK.

Executive Chamber,

Albany, March 1, 1892.

Memorandum filed with Assembly bill No. 98, entitled "An act to amend Chapter 93 of the Laws of 1877, entitled 'An act to

provide for the better administration of justice in the town of Watervliet in the county of Albany,' passed April 5th, 1877, as amended by Chapter 465 of the Laws of 1884."—Approved.

As this bill was originally before me it not only extended the term of the police justice of the town of Watervliet but increased his salary from eighteen hundred dollars per annum to twenty-five hundred dollars. At my request the bill was recalled and amended in this latter feature so as to permit the people of the town of Watervliet, at their next annual town meeting, to determine whether this additional salary should be granted. The measure, therefore, in its present shape is unobjectionable, and I cheerfully give it my approval.

In my opinion the Legislature and the Executive should subject to particular scrutiny all bills to increase the salaries of public officers. These measures are seldom sustained by public sentiment, and their chief advocacy too often comes from the individuals in whose interest they are urged. Particularly is this true when the salaries to be raised are those of local officers. Out of one hundred and sixty members of the Legislature, only one is often familiar with the facts upon which the Legislature is asked to increase the salary of a local officer, and legislative courtesy permits that one member to be the arbiter of this legislation. Often the proposed measure is enacted before the taxpayers of the locality have either information or opportunity for a protest. Thus legislation becomes a farce, and local self-government is denied.

In this case, however, the people will have an opportunity to pass upon the question of increased compensation.

I believe that as a rule all salaries and compensation of local officers should be regulated by the localities themselves. The people who pay the taxes are the best judges of what that compensation should be. So far as is possible general laws

should be passed relegating this jurisdiction to the proper local authorities. I am aware that in the case of county judges and surrogates this reform must be accomplished by constitutional amendment, but in most other cases it is believed that immediate relief to the Legislature and a greater measure of self-government to localities can be afforded by a wisely framed general statute having this relegation of authority as its object.

I express my views upon this subject thus clearly because I am informed that an unusually large number of bills for increasing the salaries of local officers is now pending in the Legislature. Complete assurance that these measures are for the public interest and are supported generally by the people of the locality is often difficult for either the Legislature or the Executive to get in the limited time at their disposal for the consideration of bills, and the safest and wisest course in my opinion is to relegate the matter to the county and municipal authorities, who are better informed and more directly responsible.

ROSWELL P. FLOWER.

MEMORANDUM FILED WITH ASSEMBLY BILL
No. 361, MAKING AN APPROPRIATION FOR
WORK ON THE CAPITOL. — APPROVED

STATE OF NEW YORK.

Executive Chamber,

Albany, March 5, 1892.

Memorandum filed with Assembly bill No. 361, entitled "An act making an appropriation for continuing work upon the Capitol."
— *Approved.*

The Capitol has cost the people of the State up to the present time \$18,592,243.58. It was begun in 1867, and the

original plan called for an expenditure of only \$4,000,000. This plan was soon set aside, however, for one providing a much larger structure. Appropriations have been made from time to time in such manner as not to permit of a continuous progress of the work of construction, and many of the appropriations were for specific work, not permitting of a simultaneous progression of the entire structure, which, together with the withholding of necessary appropriations, has been the cause of much delay and has added greatly to the cost of the completion of the building.

I am aware that the extravagant cost of the building has disgusted the people of the State, and additional appropriations for the purpose are regarded as a waste of public money, but I am convinced that the wisest economy now is to complete the building. I have received from the Commissioner of the Capitol a careful estimate that the total amount needed for the completion of the structure is \$2,251,025.32. He estimates that he can economically expend \$800,000 this year, \$700,000 next year and the remainder, \$750,000, the year following. This, by the expiration of my term of office as Governor, would bring about the completion of the building—a result which I am sure would give profound relief and satisfaction to the taxpayers.

Not to effect the completion of the building as speedily as possible will add greater burdens eventually to the people. The cost of the plant necessary to carry on the construction is fully \$75,000. By reason of the frequent and long suspensions of the work and the failure to provide funds for proper care of the plant, it has been necessary to restore the plant almost wholly three times during the past nine years. This is not business-like. It is an inexcusable policy for either a State or an individual.

Believing therefore that regard for economy requires the avoidance of such mistakes in the future, and with the expectation that the appropriation contained in this bill will provide means for more than one-third of the cost of completing the building, I have given the measure my approval.

ROSWELL P. FLOWER.

MESSAGE CONCERNING FRANCHISES IN NEW
YORK AND BROOKLYN.

STATE OF NEW YORK.

Executive Chamber,

Albany, March 7, 1892.

TO THE LEGISLATURE:

There are bills now awaiting Executive action, and others still pending in the Legislature, affecting public interests in the cities of New York and Brooklyn, which are said to bestow upon certain corporations unusual privileges and valuable franchises without any commensurate compensation to those municipalities.

I call the attention of the Legislature to these measures because in my judgment the temper of the public is not only averse to legislation for favored individuals but demands a practical and intelligent comprehension on the part of the law-making power of the relation that should exist between the municipality which has lucrative public franchises to grant and the corporations which seek them for the emoluments they are expected to yield. The great cities of New York and Brooklyn have passed beyond the experimental stage of their growth and development. Their population and wealth will continue to increase and their power and importance will become greater year by year. But the rate of their progress and the measure

of their attractiveness in the years to come depend largely upon the far-sightedness and wisdom of the present generation. The time has passed for temporary make-shifts in the line of public improvements. The need of to-day is to build for the future, taking instruction from the past and holding uppermost in regard the permanent comfort and prosperity of the people of these great municipalities.

The present condition of the cities of New York and Brooklyn, as affects municipal franchises, is somewhat critical. Their ultimate future growth being assured, and present possessors of public privileges, such as the use of streets for railway purposes, having made large returns upon their invested capital, remaining municipal franchises, as yet unbestowed, possess great present value, or if not offering hope of being immediately lucrative, can reasonably be expected to have some value in the future. What shall be the cities' attitude toward the corporations which seek these municipal privileges?

I have no sympathy with that immoderate concern for public interests which sees a bogey in every corporate enterprise of a public character. Nor do I approve that wholesale denunciation of men and motives with which a well-meaning but somewhat short-sighted and hysterical press evidently considers it a duty to greet every corporate attempt to obtain municipal privileges. The disposition which prompts such an attitude is eminently praiseworthy, and its exercise has prevented many a corporate outrage, but indulged, as it often is, indiscriminately and to excess, it has retarded public improvements, has placed the great metropolis of the country behind many a smaller city in facilities of transit and other public services, and has resulted in riveting only the more tightly the fetters of existing monopolistic control. Such narrowness and provincialism are unworthy of the largest city of our country.

I think the people believe in the encouragement of public improvements; I think they prefer that, so far as possible, these should be undertaken at private expense and should be managed by private enterprise; I think they are averse to the interposition of any unnecessary or arbitrary restrictions which will hamper improvements or deter investment; but I think they are practically unanimous in expecting the bestowal of municipal franchises to be surrounded with reasonable safeguards for subserving public interests and to be based upon terms approximately commensurate with the value of the privileges granted.

In view of this manifest public sentiment, and in the interest of intelligent and far-sighted legislation, I commend to the attention of the Legislature this subject of municipal franchises and respectfully suggest that it receive careful consideration in the shaping of bills now pending and hereafter to be introduced. The subject is surrounded, I am aware, with practical difficulties, but if it is approached in good faith and with the sole desire to subserve the best municipal interests much practical good can be accomplished. Careful consideration, I am sure, will suggest a wise middle course, the adoption of which will neither condemn a municipality for excessive prodigality in the disposition of its privileges nor stifle its development by the imposition of too severe restrictions.

In a spasm of public feeling generated some years ago by the exposure of corruption in connection with the granting of a franchise for building a surface railroad on Broadway, in New York, the Legislature passed what is known as the Cantor act, the distinguishing feature of which, so far as it relates to the money value of street railroad franchises, was that the latter should be sold at auction to the highest bidder. Theoretically this sale of public franchises to the highest bidder is sound in principle and ought to work well in practice, but as a

matter of fact the operation of the Cantor act has been a disappointment. It has favored existing transit monopolies at the expense of much needed transit improvements. It has encouraged irresponsible bids from alleged companies whose only motives were to defeat possible rivals or to force responsible and honest companies to buy off their opposition. Very little revenue has been turned into municipal treasuries by reason of it, and cities have been deprived of the benefit from the rise in real estate values which always accompanies improved means of intercommunication. By the auction provision of the Cantor act, as it now stands, the Legislature has actually retarded public improvements and the consequent appreciation of values in New York and Brooklyn.

The danger now seems to be, however, that it may go to the other extreme and legislate away valuable franchises practically for nothing.

To guard against that danger and at the same time to offer encouragement to private enterprise for public improvement I suggest whether a wise solution of the problem is not to be found in a careful scheme of municipal compensation based upon future earnings rather than upon present estimated and uncertain values of privileges granted. The present worth of franchises is a difficult matter to calculate. A public franchise which to-day may seem of little or no value, in twenty-five years may be of great value, or a privilege which to-day men would pay well for in a few years may have lost its value. Capital is timid and will not take great risks save with the expectation of large returns. The public which has franchises to dispose of must for its own welfare encourage their disposal, should not begrudge reasonably large returns for risks taken, but should require a fair share of profits when the profits accrue from privileges which it has granted. The most sensible attitude for the public in my judgment is that which welcomes

improvements by withholding unreasonable or doubtful restrictions, but insists that if a franchise granted shall prove remunerative the municipality, as grantor, shall be reasonably compensated therefor. This is a business proposition which in its general principle ought to satisfy both the public and the franchise-seeking investor. It makes the interests of both common.

The working out in detail of such a general scheme of municipal compensation must necessarily fall largely upon the Legislature in authorizing the bestowal of various kinds of franchises. Had it been adopted years ago, public improvements would have been none the less hampered, while to-day in New York, for instance, the city would be enjoying a share at least of the immense profits now earned by elevated railroads, surface railroads and other public corporations which pay practically no revenue to the local treasury for the special privileges possessed. During the last ten years the gas company of Paris has paid into the treasury of that city \$40,000,000, besides lighting the streets and public buildings at cost, and the annual revenues to the city from railroad, gas, water, cab and other companies which enjoy public privileges vary from six to eight million dollars.

This experience ought to be valuable in indicating possibilities of increasing by proper legislation the indirect revenues of our own municipalities, and of relieving by just so much the burdens of direct taxation upon the people.

I bespeak for the whole subject the earnest study and deliberation which its present and future importance demands and which current popular interest expects at the hands of the law-making power.

ROSWELL P. FLOWER.

MEMORANDUM FILED WITH ASSEMBLY BILL
No. 544 TO INCORPORATE THE EAST RIVER
BRIDGE COMPANY.—APPROVED; AND

ASSEMBLY BILL No. 668, PROVIDING FOR RAPID
TRANSIT RAILWAYS IN NEW YORK.—AP-
PROVED.

STATE OF NEW YORK.

Executive Chamber,

Albany, March 9, 1892.

Memorandum filed with Assembly bills 544 and 668, entitled respectively "An act to incorporate the East River Bridge Company," and "An act to amend Chapter four of the Laws of eighteen hundred and ninety-one, entitled 'An act to provide for rapid transit railways in cities having over one million inhabitants,' passed January thirty-first, eighteen hundred and ninety-one."— Both approved.

These bills provide for the carrying out of the very laudable purpose of increasing the facilities of communication between Long Island and the city of New York by the construction of one or two new bridges, with the necessary approaches and elevated railroad required for connection with existing transit lines in New York. So much-needed a public improvement, and one likely to be of such benefit to the material interests of the twin cities of New York and Brooklyn, deserves public encouragement and all reasonable relief at the hands of the law-making power from restrictions which might tend to prevent the consummation of the enterprise.

These measures, however, as they originally passed the Legislature, did not, in my judgment, sufficiently safeguard public interests and granted to the corporation formed privileges too extreme. At my suggestion they were recalled for amend-

ment, and in my opinion are now fairly satisfactory in their terms. They protect municipal rights, provide compensation to municipal treasuries for privileges bestowed, and at the same time do not impose harsh or unreasonable restrictions.

The bills in their present shape exempt from taxation indefinitely the bridge structure or structures. They do not exempt from taxation the lands acquired by the corporation, the bridge approaches, or the structure of any elevated railroad owned, controlled, managed or operated by the corporation either in New York or Brooklyn. They do exempt the corporation itself, as distinguished from its property, from all taxation for a period of ten years, or until the gross earnings of either of the bridges shall average three thousand dollars a day for a period of six months. These exemptions may be called the encouragement which the Legislature offers the corporation for the construction of its bridges. They are not so liberal as the privileges surrounding the present Brooklyn bridge, with which the new bridge must compete.

In addition to this the Legislature has established in these measures the sound principle that if a public franchise, whose present value is apparently nothing or at most indeterminable, shall hereafter prove remunerative beyond ordinary returns on capital invested, the public, as represented by the municipalities affected, should be a sharer in that remuneration. Consequently these bills provide that whenever the average gross earnings of either of the bridges, or of the approaches, or of the railroads in connection with either bridge shall exceed four thousand dollars a day for a period of six months, the company shall pay into the municipal treasuries of New York and Brooklyn one per cent. of such gross earnings, and an additional one per cent. for each multiple of four thousand dollars of gross earnings a day. If the bridge enterprise therefore is the financial success which its critics, perhaps more than its

promoters, predict, the two cities will share a constantly increasing percentage of its earnings.

The criticism has been made that it will be possible under these measures as laws, for the bridge company thus incorporated to build and maintain a cross-town elevated railroad in New York without constructing any bridge, and that for such a franchise the city is not sufficiently compensated. It is probably true that the company could exercise this privilege, but under its terms of incorporation it must complete one bridge within eight years or lose its corporate privileges. The elevated railroad franchise therefore would continue for only that period. But beyond this, the company would be compelled to give up the same percentages on its gross receipts as if the bridge was in operation. If such a far-sighted requirement had accompanied the grant of franchises to the existing elevated railroads in New York, the city would be receiving annually at this rate of compensation the enormous revenue of between six and seven hundred thousand dollars in addition to what is received from the general taxation of the company's property. Even the much-praised rapid transit act of last year, which the latter of these bills amends, had no such provision in it for securing municipal compensation, for it merely provided that the franchise to be disposed of should be sold at auction to the highest bidder, and it was left optional for the rapid transit commissioners to fix the terms, *i. e.*, whether the franchise should be sold for a lump sum or for an annual percentage of gross receipts.

I am not prepared to say that the operation of these bills as laws will not disclose defects which will need correction, but upon the whole I believe them to be reasonably satisfactory and I cheerfully give them my approval. Under constitutional provisions the company's charter can be amended or repealed by the Legislature at any time.

ROSWELL P. FLOWER.

VETO, SENATE BILL No. 79, PROVIDING FOR A
FISH HATCHERY IN THE SOUTHERN TIER.

STATE OF NEW YORK.

Executive Chamber,

Albany, March 11, 1892.

TO THE SENATE:

Senate bill No. 79, entitled "An act to establish a fish hatchery in the southern tier," is herewith returned without approval.

My objections to this measure are the same as those which are stated in my message to the Assembly on February 19th last, returning without approval Assembly bill No. 200, entitled "An act to establish a fish hatchery in the county of Sullivan, State of New York." I respectfully refer the Senate to that message.

ROSWELL P. FLOWER.

VETO, ASSEMBLY BILL No. 8, RELATING TO TES-
TIMONY OF PHYSICIANS. (AMENDING CODE
OF CIVIL PROCEDURE.)

STATE OF NEW YORK.

Executive Chamber,

Albany, March 11, 1892.

TO THE ASSEMBLY:

Assembly bill No. 8, entitled "An act to amend section eight hundred and thirty-six of the Code of Civil Procedure of the State of New York relative to confidential communications upon examination of witnesses," is herewith returned without approval.

This bill extends the present provisions of the Code as amended last year, by adding to the "personal representatives" of the deceased patient, who may waive the provisions of section eight hundred and thirty-four of the Code with reference to the testimony of physicians or surgeons, the following persons, namely, "the surviving husband, widow, or an heir-at-law *and* next of kin." In the case of the validity of a will being in question the bill extends the provisions of the Code by adding to the "executor or executors" of the deceased patient who may waive the above provisions "the surviving husband, widow, or an heir-at-law, *or* next of kin."

It will be seen therefore that the bill is ambiguously drawn, but beyond that criticism I am not convinced of the propriety of the proposed change in the law, and cannot consistently give the measure my approval.

ROSWELL P. FLOWER.

VETO, ASSEMBLY BILL NO. 116, RELATING TO STAY
OF EXECUTION, ETC. (AMENDING CODE OF
CRIMINAL PROCEDURE.)

STATE OF NEW YORK.

Executive Chamber,

Albany, March 11, 1892.

TO THE ASSEMBLY:

Assembly bill No. 116, entitled "An act to amend section seven hundred and forty-nine of the Code of Criminal Procedure of the State of New York, relating to stay of execution of sentence, of appeal and review of commitments," is herewith returned without approval.

I doubt the wisdom of this proposed amendment. It requires courts of Special Sessions to stay execution of sentence

not less than forty-eight hours in a city, and not less than four days outside of a city, to enable the defendant to perfect an appeal. Aside from the questionable length of the stay, this provision, in its present mandatory shape, would apparently promote indefinite stays, an abuse which is sometimes now alleged and which in my opinion should not be encouraged by legislation.

ROSWELL P. FLOWER.

VETO, SENATE BILL No. 197, TO PROVIDE FOR A
SUPREME COURT LIBRARY AT ELMIRA.

STATE OF NEW YORK.

Executive Chamber,

Albany, March 15, 1892.

TO THE SENATE:

Senate bill No. 197, entitled "An act to establish a law library in the sixth judicial district to be called 'the Supreme Court library at Elmira,' and making an appropriation therefor," is herewith returned without approval.

This bill appropriates four thousand dollars for the establishment of a law library at Elmira upon condition that an equal sum therefor shall be raised by local private subscription, or by resolution of the board of supervisors of Chemung county. The Justices of the Supreme Court of the Sixth Judicial District and their successors are made the trustees of the library.

There are now eleven Supreme Court libraries established and supported wholly or in part by State appropriations. These are located respectively in the cities of New York, Brooklyn, Kingston, Newburgh, Utica, Syracuse, Rochester, Buffalo, Binghamton, and the villages of Saratoga Springs

and Delhi. They are supposed to have been established chiefly for the use of the justices of the Supreme Court residing in the various cities and villages where the libraries are located. The only tenable ground for making State appropriations for these libraries is that the State may properly supply its officers with the equipment necessary for the performance of their duties. Such a policy, consistently carried out, would give a library to each Supreme Court judge, to be located where he resides and to be transferred upon the expiration of his term to the place of residence of his successor. Certainly there can be no valid argument in favor of State appropriations for merely local libraries, however valuable they might be to the lawyers and others of the communities in which they are located.

But this bill locates the proposed library permanently at Elmira, whether there shall be a Supreme Court judge residing there or not. The inconsistency of such a provision is already exemplified in the Supreme Court law library which is permanently located at the village of Delhi, although there has been no Supreme Court judge residing there for a number of years. There is no better reason for the continuance of State appropriations to that law library than for a State appropriation for a law library at the county seat of each county in the State.

It is perhaps doubtful whether the State should assume the policy of supplying every justice of the Supreme Court with a law library. But however that may be, it seems clear that the State should not locate any such library permanently in any city unless it is reasonably certain that there will always be a justice of the Supreme Court resident in that city.

This bill adopts the provisions of existing laws, making a justice of the Supreme Court the trustee of the library, which provision appears to be in conflict with section ten of article

six of the Constitution, which provides that no judge of the Court of Appeals or justice of the Supreme Court shall hold any other office or public trust. If this were the only objection to the bill it could be easily obviated by amendment. The other objections are inherent in the essential theory of the bill, and, in my judgment, are inconsistent with the true policy of State appropriations for local purposes.

ROSWELL P. FLOWER.

VETO, ASSEMBLY BILL No. 201, TO PREVENT
DECEPTION IN GILDED WARE. (AMENDING
PENAL CODE.)

STATE OF NEW YORK.

Executive Chamber,

Albany, March 15, 1892.

TO THE ASSEMBLY:

Assembly bill No. 201, entitled "An act to amend title eleven of the Penal Code by adding a new section to be known as section three hundred and fifty-six; to prevent deception in the manufacture and sale of articles of gilded ware," is herewith returned without approval.

The bill is faultily drafted. It purports in its title to amend the Penal Code, but in its first section amends title eleven, of chapter six hundred and seventy-six of the laws of eighteen hundred and seventy-six. The Penal Code is chapter six hundred and seventy-six of the laws of eighteen hundred and eighty-one.

As to the substance of the measure, I am informed that its object is "to prevent manufacturers and merchants selling picture frames, mouldings, books, cards and decorative works of art, gilt with imitation leaf, for articles gilt with gold leaf."

The bill's provisions however are certainly more sweeping in their effect. One of them is that "no person shall sell, or offer, or expose for sale any article which is in whole or in part covered with gilt or gilding, unless said article shall be distinctly and durably branded or labeled with the name and place of business of the manufacturer thereof, and, the words 'gold leaf gilt,' in case the gilt or gilding on such article is all genuine gold leaf gilt or gilding, or the words 'imitation gold leaf gilt' in case the gilt or gilding on such article is not all genuine gold leaf gilt or gilding." Violation of this provision is made a misdemeanor and is punishable by a fine of not less than twenty-five dollars, nor more than two hundred dollars, or by imprisonment of not less than ten days or more than sixty days, or by both fine and imprisonment.

It has been urged against the bill, with force, in my opinion, that such legislation would be unjust to jewelers and others, who, under the provisions of this bill, would be compelled, before July 1, next, to dispose of all articles in stock which in whole or in part are covered with gilt or gilding, or else return them to the manufacturer to have branded upon them the words to indicate their genuine or imitation character and the name and place of business of their manufacturers. I do not believe the evil of occasional imposition by the deception of merchants is sufficient to justify so arbitrary and sweeping an amendment to the Penal Code, and I am therefore unable to give my approval to the measure.

ROSWELL P. FLOWER.

VETO, ASSEMBLY BILL No. 368, PROVIDING FOR
A VERTICAL CANAL RETAINING WALL IN
ROYALTON, NIAGARA COUNTY.

STATE OF NEW YORK.

Executive Chamber,

Albany, March 15, 1892.

TO THE ASSEMBLY:

Assembly bill No. 368, entitled "An act for the construction of a vertical retaining wall in place of the slope wall constructed along the northerly or towing-path side of the Erie canal, in the town of Royalton, county of Niagara, from the east line of Charles Day's land three hundred feet, and to make an appropriation therefor," is herewith returned without approval.

The appropriation provided for in this act is given upon the condition that no part of it shall be expended until the Superintendent of Public Works shall file with the Comptroller his certificate that the work is necessary and should be done at the expense of the State. I am informed by the Superintendent of Public Works that the work is not necessary, and I therefore cannot consistently give the bill my approval.

ROSWELL P. FLOWER.

VETO, ASSEMBLY BILL No. 37, GIVING THE BOARD
OF CLAIMS JURISDICTION IN THE CASE OF
HATTIE L. BURHANS.

STATE OF NEW YORK.

Executive Chamber,

Albany, March 21, 1892.

TO THE ASSEMBLY:

Assembly bill No. 37, entitled "An act to authorize the State Board of Claims to hear, audit and determine the claim

of Hattie L. Burhans against the State, and to make an award therefor," is herewith returned without approval.

By this bill the claimant seeks to secure damages against the State for personal injuries received by her in falling through an elevator shaft in the State Normal school building at Fredonia. In my opinion it is against public policy for the State to pay damages for personal injuries in State buildings, and for that reason I am unable to approve the measure.

ROSWELL P. FLOWER.

VETO, ASSEMBLY BILL No. 242, AUTHORIZING
THE CITY OF COHOES TO ACQUIRE CERTAIN
LANDS.

STATE OF NEW YORK.

Executive Chamber,

Albany, March 21, 1892.

TO THE ASSEMBLY:

Assembly bill No. 242, entitled "An act to authorize the city of Cohoes to acquire and pay for lands necessary for the extension and opening of Schuyler street in the city of Cohoes," is herewith returned without approval.

Chapter 912 of the Laws of 1869, which incorporates the city of Cohoes, already makes ample provision for the extension and opening of streets, and the proposed bill is unnecessary. If the powers of the charter are not sufficiently ample in this respect, they may be extended by amendment. That course is preferable to special legislation every time it is desired to open or extend a street

ROSWELL P. FLOWER.

VETO, ASSEMBLY BILL No. 424, TO REVISE THE
BUFFALO CITY CHARTER.

STATE OF NEW YORK.

Executive Chamber,

Albany, March 21, 1892.

TO THE ASSEMBLY:

Assembly bill No. 424, entitled "An act to amend section two hundred and fifty-one of chapter one hundred and five of the laws of eighteen hundred and ninety-one, entitled "An act to revise the charter of the city of Buffalo," is herewith returned without approval.

I regret that I cannot approve this bill. Its purpose is to enable members of the fire department to have three days' leave of absence in each month instead of two. The only method of relief is by legislation, inasmuch as the city charter arbitrarily prescribes the number of days' leave which the fire commissioners shall allow. From the facts before me there would seem to be strong reasons for granting the firemen an additional holiday in each month.

The mayor of Buffalo, however, and the fire commissioners have protested against the bill on the ground that it is unnecessary, that it will involve an extra expense to the city of about \$24,000 a year, and that it will impair the efficiency of the fire department. Although sympathizing therefore with the general purpose of the bill, I yield to the judgment of the local authorities, who ought to be better qualified to pass upon the merits of the measure, and return the bill without approval.

In a matter affecting the relations between the heads of a municipal department and its employees proper regard for efficiency of service requires a reasonable compliance with the wishes of the superior and responsible officers.

ROSWELL P. FLOWER.

VETO, SENATE BILL No. 207, MAKING AN APPROPRIATION FOR AWARDS OF THE BOARD OF CLAIMS.

STATE OF NEW YORK.

Executive Chamber,

Albany, March 21, 1892.

TO THE SENATE:

The following item contained in Senate bill No. 207, entitled "An act to reappropriate the unexpended balance of a former appropriation for the payment of awards of the Board of Claims, in claims other than those on account of the canals of this State and for making further appropriation for the payment of the awards of the Board of Claims," is objected to and not approved, namely:

"§ 2. The further sum of fifty thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any moneys in the treasury not otherwise appropriated, to pay awards which may be made by said Board of Claims, in claims other than those on account of the canals of this State, during the present calendar year, with interest upon said awards from the date thereof, respectively; but no such awards to be paid except upon the filing with the Comptroller of a copy of such award duly certified by the clerk of the Board, and a certificate of the Attorney-General that no appeal from such award has been or will be taken by the State."

This item is objected to and not approved upon the ground that it is questionable policy for the State to appropriate in advance moneys for claims which have not yet been awarded by the tribunal established for that purpose. I am aware that this course has been followed in the past, and is defended upon the ground of economy, in that it saves to the people some interest on the amount of awards granted during the recess of

the Legislature. But I do not consider it wise in principle, and the practice is likely to be abused by encouraging greater taxation than is needed.

This is demonstrated conclusively by the legislation of last year. Chapter 73 of the Laws of 1891, which corresponds in form to this bill now before me, reappropriated for a similar purpose the balance of \$31,250 remaining in the treasury unexpended of an appropriation of the previous year, and added a new appropriation of \$50,000, making altogether a sum of \$81,250 available for payments of awards to be granted during the remainder of the calendar year. As a matter of fact the payments during the remainder of the year were only \$19,350, leaving an unexpended balance of \$61,900, which sum, by the first section of this bill, is now reappropriated. The additional sum of \$50,000 in 1891 was therefore unnecessarily collected from the people. I give my approval to the reappropriation provided for in this bill, but for the reason stated I disapprove the additional appropriation.

ROSWELL P. FLOWER.

VETO, ASSEMBLY BILL No. 97, RELATING TO THE
PARK POLICE OF THE CITY OF NEW YORK.

STATE OF NEW YORK.

Executive Chamber,

Albany, March 23, 1892.

TO THE ASSEMBLY:

Assembly bill No. 97, entitled "An act to amend section six hundred and ninety of chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled 'An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York,' as

amended by chapter two hundred and sixty-two of the laws of eighteen hundred and eighty-seven, relative to park police, and their appointment," is herewith returned without approval.

This bill is objectionable in its mandatory features. It takes away certain powers now properly reposed in the park commissioners, and now and heretofore exercised by them in their discretion, and compels them to do certain things which may or may not be wise, but of the wisdom or unwisdom of which the park commissioners ought to be better judges than the Legislature. They present questions affecting the efficiency and discipline of the park department, and their determination properly belongs to the board of park commissioners, in whom the people of the city of New York, through their elective officers, have intrusted jurisdiction over such matters. If the park commissioners do not discharge the duties of their office satisfactorily, the people have the remedy in their own hands; but the Legislature ought not to assume the responsibility of conducting the affairs of a municipal department.

That the park commissioners are quickly responsive to public sentiment has been conspicuously demonstrated within the past twenty-four hours, when in compliance with strong expressions of public disapproval against the establishment of a new drive-way in Central Park, authorized by recent legislation, they availed themselves of the permissive features of the law under which their power to make plans for a drive-way was granted, and promptly rescinded their previous resolution making requisition upon the board of estimate and apportionment for the necessary appropriation to carry on the work. Had the Legislature in that case enacted a mandatory law, the city would have had no redress save by securing its repeal, and the park commissioners would have had no option but

to make the necessary provision for the proposed drive-way, irrespective of the pronounced opposition of the people of the municipality. So long as municipal charters continue to define specifically almost every power of the departments or officers of local government, and are subject each year to legislative amendment, perfect local self-government is not attainable, but in the yearly grant of new powers or the restriction of old powers a large measure of Home Rule can be accomplished by permissive rather than mandatory legislation.

ROSSELL P. FLOWER.

VETO, ASSEMBLY BILL No. 119, AMENDING THE
CHARTER OF WATERFORD.

STATE OF NEW YORK.

Executive Chamber,

Albany, March 29, 1892.

TO THE ASSEMBLY:

Assembly bill No. 119, entitled "An act to amend chapter two hundred fifty-three of the laws of eighteen hundred and fifty-nine, entitled 'An act to amend the charter and the several acts relating to the village of Waterford, and to incorporate the same into one act,'" is herewith returned without approval.

The main provision of this bill is that the village of Waterford shall not be liable for injuries from defects in the streets, sidewalks or bridges of that village unless actual notice of the defect "shall have been given to the president of said village, or the board of trustees thereof, at least twenty-four hours previous to such damage or injury."

The common law, as settled by the courts, imposes upon cities and villages liability for damages from defects in streets

and sidewalks if the defect has existed so long that the officials charged with the duty of repairing the streets would with reasonable diligence have discovered and repaired the defect. The failure of the proper officials to discover and repair the defect within such reasonable time is held by the courts to be equivalent to actual knowledge thereof. The law as so laid down by the courts requires village officers to be reasonably diligent in discovering and repairing dangerous defects in streets and sidewalks, and renders the village liable for negligence of its officers in discovering defects, as well as for negligence in repairing after discovery. The change in the law proposed by this bill places a premium upon the negligence of the officials of the village of Waterford in ascertaining the condition of its streets, sidewalks and bridges. Under this bill, if the village officials should take pains not to discover such defects, however dangerous, the village would not be liable for damages therefrom, unless some person, not charged with any special duty in the premises, had given actual notice thereof either to the president or to the board of trustees of the village.

This is not a matter which concerns the citizens and taxpayers of the village of Waterford merely; it concerns every person who is liable to travel its streets and sidewalks. Such a provision, as proposed by this bill, has, it is true, crept into some village and city charters, but the diligence of interested counsel has failed to discover any such provision in the legislation of the past eight years. It is doubtful if the Legislature is ready to adopt such a provision for all the cities and villages of the State. If it is not good public policy for all cities and villages, it is not good public policy for the village of Waterford. If the Legislature should make such a provision applicable to all cities and villages and thereby express their deliberate adoption of the policy proposed by this bill, the ques-

tion might assume a different aspect, but for the present at least I cannot approve of this policy in a special and exceptional instance.

ROSWELL P. FLOWER.

VETO, ASSEMBLY BILL No. 644, MAKING AN APPROPRIATION FOR THE IMPROVEMENT OF OAK ORCHARD CREEK.

STATE OF NEW YORK.

Executive Chamber,

Albany, March 30, 1892.

TO THE ASSEMBLY:

Assembly bill No. 644, entitled "An act making an appropriation for the improvement of the Oak Orchard Creek and canal feeder," is herewith returned without approval.

The public improvement sought to be accomplished by this bill would probably be of benefit to the Erie canal; but the amount appropriated, namely, \$35,000, is considerable, and, in view of the necessity for other appropriations for canal improvements at this session of the Legislature — appropriations which the interests of the canal make more imperative than that provided by this bill — I am disinclined to give the bill my approval at the present time. The interests of economy, in my judgment, demand that all appropriations which are not imperatively needed for the maintenance and improvement of the canals should be deferred until some other year.

ROSWELL P. FLOWER.

MEMORANDUM FILED WITH ASSEMBLY BILL
No. 433 RELATING TO ASSESSMENTS AND
THE EVASION OF TAXATION.— APPROVED.

STATE OF NEW YORK.

Executive Chamber,

Albany, March 30, 1892.

Memorandum filed with Assembly bill No. 433, entitled "An act to amend section nine of article second, title two, chapter thirteen, part first of the Revised Statutes, and section four of chapter four hundred and eleven of the laws of eighteen hundred and eighty-five, entitled 'An act relative to the assessment and collection of taxes, the disposition to be made of certain moneys collected, to legalize certain unpaid taxes and to authorize the redemption of certain lands in towns within counties containing upwards of three hundred thousand inhabitants,' relating to the assessment and collection of taxes."—
Approved.

This bill is intended to remedy an evil which has existed for a long time and which earnest legislators have sought in vain to correct in previous legislative sessions. Although the wealth of the State has been rapidly increasing, the assessed valuation of personal property has been steadily decreasing during the last two decades, until now it actually amounts to more than \$70,000,000 less than the assessed valuation of personal property in 1871. The law has afforded a ready means for the escape of personal property from taxation, by allowing deductions in the assessment of personal property for all "just debts." It is believed that debts have been temporarily contracted for the sole purpose of evading taxation and that by this device a large share of personal property has escaped any taxation whatsoever. This method of evasion has, I am in-

formed, been sustained as legal by the courts, and assessors have had no remedy under existing laws.

The spirit of the law being plainly opposed to such evasions, it is therefore advisable to strengthen it so as to reduce such evasions to the lowest possible degree. This is what the measure before me aims to do. It prohibits the deduction from assessment of personal property of (1) debts for the purchase of non-taxable property; (2) debts on account of indirect liability as surety, guarantor, indorser, or otherwise; and (3) debts contracted for the purpose of evading taxation. This legislation ought to increase greatly the proportion of taxes yielded by personal property and to do much toward equalizing the burdens of taxation.

ROSWELL P. FLOWER.

VETO, ASSEMBLY BILL INTRODUCTORY No. 1162,
RELATING TO THE WORCESTER CONGREGA-
TIONAL CEMETERY.

STATE OF NEW YORK.

Executive Chamber,

Albany, April 1, 1892.

TO THE ASSEMBLY:

Assembly bill Introductory No. 1162, entitled "An act to authorize the Congregational Society of the town of Worcester, county of Otsego and State of New York to remove the dead bodies from the cemetery belonging to said society, and to use the said cemetery lands for other purposes," is herewith returned without approval.

This legislation is unnecessary. Ample power to accomplish the same purpose is contained in a general law, namely,—Chapter 349 of the Laws of 1878, as amended by Chapter 600 of the Laws of 1887.

ROSWELL P. FLOWER.

VETO, ASSEMBLY BILL No. 819, RELATING TO DE-
POSITS OF STATE MONEYS IN BANKS.

STATE OF NEW YORK.

Executive Chamber,

Albany, April 2, 1892.

TO THE ASSEMBLY:

Assembly bill No. 819, entitled "An act to amend section seven of chapter eight, title four of part one, Revised Statutes," is herewith returned without approval.

Chapter 323 of the Laws of 1874, which superseded the section of the Revised Statutes proposed to be amended in this bill, restricts the deposit of moneys in the general fund of the treasury to banks in the cities of New York and Albany. This measure authorizes the Treasurer to deposit all public moneys, not belonging to the canal fund, in any bank in the State having a capital of \$50,000 or over, which, in the opinion of the Comptroller and Treasurer, shall be secure and will pay the highest rate of interest for such deposit. Aside from the question of propriety involved in authorizing so general a distribution of public moneys that are liable to sudden drafts from the treasury, this measure throws no safeguards around such deposits, places no limit upon the amount of deposits in each bank, requires no bond from the banks receiving the deposits, and omits other precautionary provisions which should accompany such important legislation. The custody of the people's money is too serious a responsibility not to be surrounded by all proper safeguards, and ordinary restrictions should be imposed by statute rather than be made a matter of official discretion.

ROSWELL P. FLOWER.

VETO, SENATE BILL No. 365, TO CHANGE THE
NAME OF THE ALBANY SOCIETY FOR THE
RELIEF OF DESTITUTE CHILDREN.

STATE OF NEW YORK.

Executive Chamber,

Albany, April 4, 1892.

TO THE SENATE:

Senate bill No. 365, entitled "An act to amend chapter ninety-four of the laws of eighteen hundred and thirty-one, entitled 'An act to incorporate the Society for the Relief of Orphan and Destitute Children in the city of Albany,'" is herewith returned without approval.

This legislation is unnecessary. A general law (Chapter 322 of the Laws of 1870, as amended by Chapter 280 of the Laws of 1876) already provides for the desired change of name, and another general law (Chapter 553 of the Laws of 1890) authorizes the society to increase the amount of property it may hold to \$3,000,000, or the amount of yearly income from its property to \$250,000. Both objects of the measure are therefore attainable without recourse to special legislative action.

ROSWELL P. FLOWER.

VETO, SENATE BILL No. 359, TO CHANGE THE
NAME OF THE ELLISBURGH UNION LITER-
ARY SOCIETY.

STATE OF NEW YORK.

Executive Chamber,

Albany, April 4, 1892.

TO THE SENATE:

Senate bill No. 359, entitled "An act to amend section one of chapter one hundred and sixty-five of the laws of eighteen

hundred and twenty-six, entitled 'An act to incorporate the Union Literary Society of Ellisburgh,' " is herewith returned without approval.

The bill has two principal objects—to change the name of the society and to increase the limit of yearly income which it may hold from five thousand dollars to fifteen thousand dollars. Both of these objects may be accomplished under existing laws—the change of name under Chapter 322 of the Laws of 1870, as amended by Chapter 280 of the Laws of 1876, and the increase of yearly income under Chapter 553 of the Laws of 1890.

The bill is therefore unnecessary.

ROSWELL P. FLOWER.

VETO, ASSEMBLY BILL No. 690, TO AMEND THE
CHARTER OF THE SUPREME COUNCIL OF
THE CATHOLIC MUTUAL BENEFIT ASSOCIA-
TION.

STATE OF NEW YORK.

Executive Chamber,

Albany, April 4, 1892.

TO THE ASSEMBLY:

Assembly bill No. 690, entitled "An act to amend chapter four hundred and ninety-six of the laws of eighteen hundred and seventy-nine, entitled 'An act to incorporate the Supreme Council of the Catholic Mutual Benefit Association,' " is herewith returned without approval.

The objects of the bill can already be accomplished by general laws (see Chap. 553, Laws of 1890), and its enactment is therefore unnecessary.

ROSWELL P. FLOWER.

MEMORANDUM FILED WITH SENATE BILL No.
327, AUTHORIZING WOMEN TO VOTE FOR
SCHOOL COMMISSIONERS.

STATE OF NEW YORK.

Executive Chamber.

Albany, April 4, 1892.

Memorandum filed with Senate bill No. 327, entitled "An act to determine those who have a right to vote for school commissioners."

This bill extends to women the privilege of voting for school commissioners. I am not entirely convinced that the measure is constitutional, but the weight of legal authority seems to sustain its constitutionality, and I have therefore allowed the bill to become a law.

I am the more constrained to this course by reason of the fact that for twelve years there has been in our statute books a law declaring no person ineligible to vote at school meetings by reason of sex, and that although this privilege has been constantly enjoyed by women during that time, the law's constitutionality has not been questioned, so far as I am aware, by any judicial decisions, or by any official opinions of the Attorney-General. Attorney-General Russell, in an official opinion given July 31, 1883, said, referring to this statute, (Chapter 9 of the Laws of 1880) and to the subsequent one, Chapter 492 of the Laws of 1881: "The constitutionality of these statutes has always been assumed. No question in that respect is before me and none will be discussed." Attorney-General Tabor, in an official opinion given January 20, 1891, said of these same laws: "So far as I know it has been assumed by everybody that this provision of the statute did not violate the Constitution," but he did not further indicate his opinion

upon the question. The bill before me in effect merely extends the provisions of these laws, and inasmuch as they have not, to my knowledge, been declared unconstitutional by our courts it would be a somewhat unwarrantable assumption on the part of the Executive to refuse to allow the measure to become a law upon the ground of its alleged unconstitutionality.

So far as the constitutional point is involved, I presume it must be considered as settled that the clause in the Constitution (Art. II, Sect. 1) which provides that "every male citizen * * * shall be entitled to vote * * * for all officers that now are or hereafter may be elective by the people" prohibits women from voting for any of the officers therein referred to. The Supreme Court of Illinois, in the case of *The People vs. English*, decided January 18, 1892, and reported in 29 N. E. Rep. 678, alludes to the authorities upon this subject as follows:

"In Cooley's Constitutional Limitations (page 599) it is said: 'Whenever the Constitution has prescribed the qualifications of electors, they cannot be changed or added to by the Legislature, or otherwise than by an amendment of the Constitution.' In *McCafferty vs. Guyer*, 59 Pa. St. 109, it was said by Strong, J.: 'It has always been understood that the Legislature has no power to confer the elective franchise upon other classes than those to whom it is given by the Constitution, for the description of those entitled is regarded as excluding all others.' But it is useless to multiply citations, for the books and the opinions in deciding cases are full of like statements of the law. We understand the law to be as is stated in the above quotations, and that such law is applicable, at least, in all cases of an election held for an officer who is mentioned or provided for in the Constitution, unless it is indicated by that instrument that such officer may be otherwise elected

or appointed, or that the Legislature or some other body may determine by whom such officer may be elected or appointed. It may be that it is competent for the Legislature to provide that women who are citizens of the United States and over 21 years of age, may vote at elections held for school directors and other school officers who are not mentioned in the Constitution; but that question is not before us for decision, and we therefore express no opinion in regard to it."

The General Term of the Supreme Court of this State in *People vs. Barber*, 48 Hun, and the Circuit Court of the United States, in *U. S. vs. Anthony*, 11 Blatch., 200, both cases arising under our State Constitution, are to the same effect. Acting upon the distinction indicated in the last sentence above quoted from the Illinois case, the Legislatures of New York, Michigan, Kansas and Nebraska, under substantially similar constitutions, have expressly conferred upon women the right to vote for school district officers. The courts of last resort in each of the States of Michigan, Kansas and Nebraska have upheld such legislation as constitutional.

Belles vs. Burr (1889), 75 Mich., 1.

State vs. Cones (1884), 15 Neb., 44.

Wheeler vs. Brady (1875), 15 Kans., 26.

The Illinois Supreme Court, in the case above cited, held that the statute of that State, authorizing women to vote for school commissioner, was unconstitutional inasmuch as the Constitution of that State expressly mentions the office of school commissioner. The office of school commissioner is not recognized by the Constitution of this State, but is included among the "other officers" referred to in Art. X, Sect. 2, of the Constitution as follows: "All other officers, whose election or appointment is not provided for by this Constitution, and all officers, whose offices may hereafter be created by

law, shall be elected by the people, or appointed, as the Legislature may direct."

School commissioners are chosen by school commissioner districts, and are neither county nor town officers. When the Legislature by virtue of Art. X, Sect. 2, makes school district officers and school commissioners "elected by the people," it may be argued that they are officers "elective by the people" within Art. II, Sect. 1 of the Constitution, for whom women are thereby prohibited from voting. Yet the Kansas Constitution contained substantially similar clauses when the decision above referred to was made by the Supreme Court of that State. The Constitutions of Michigan and Nebraska are so nearly like those of New York and Kansas in this respect, as to make the reasoning of the Michigan and Nebraska Supreme Courts in favor of the constitutionality of such legislation under their Constitutions, equally applicable to the legislation proposed by this bill under our Constitution. There seems to be no ground for distinction in this respect between officers of a school district and officers of a school commissioner district. For over ten years the laws of this State allowing women to vote for officers of a school district have stood without serious criticism either upon grounds of constitutional or public policy. I can see no basis for more serious objection to the extension of the right to vote for officers of a school commissioner district.

ROSWELL P. FLOWER.

MEMORANDUM FILED WITH SENATE BILL No.
375, TO INCREASE THE NUMBER OF JUSTICES
OF THE SUPREME COURT BY CONSTITU-
TIONAL AMENDMENT.

STATE OF NEW YORK.

Executive Chamber,

Albany, April 4, 1892.

Memorandum filed with Senate bill No. 375, entitled "An act to provide for submitting a proposed amendment to the Constitution to the electors of the State, increasing the number of Justices of the Supreme Court."

The constitutional amendment whose submission to the people is herein provided for has been duly agreed to by two successive Legislatures, those of 1889 and 1890. It is as follows:

"Resolved, (if the Senate concur) That the sixth article of the constitution be amended by adding thereto the following section:

Section 29. The Legislature at the first session thereof, after the adoption of this amendment, shall provide for the election at the general election next after the adoption of this amendment by the electors of the first and second judicial districts of not more than two Justices of the Supreme Court in addition to the Justices of that court now in office in each of said judicial districts, and one Justice of said court in addition to the Justices of that court now authorized by law to be elected in each of the following judicial districts, namely: The third, fourth, fifth, sixth, seventh, and eighth judicial districts. The Justices so elected shall be invested with their offices on the first Monday of January next after their election."

The wording of the amendment has been criticised as faulty. It has been asserted that if the amendment were to be adopted

by the people its provisions would require the Legislature to provide for the election of one additional Justice of the Supreme Court in each of the third, fourth, fifth, sixth, seventh and eighth judicial districts, not by the electors of each of those districts, but by the electors of the first and second judicial districts. It is not to be presumed that this was intended by the Legislature. Yet in spite of the ambiguous or faulty construction of the proposed amendment, to which publicity has been given heretofore, the Legislature of 1891 passed a bill for its submission to the people, which was vetoed on the ground of defects in the bill itself, and the present Legislature has now provided again for the submission, in a bill which is unobjectionable in form. In view of these circumstances the Executive does not feel justified in returning the bill to the Legislature without approval, but has allowed it to become a law, pursuant to the Constitution, without his signature.

ROSWELL P. FLOWER.

VETO, ASSEMBLY BILL No. 342, RELATING TO
THE COLLECTION OF POLL TAXES.

STATE OF NEW YORK.

Executive Chamber,

Albany, April 5, 1892.

TO THE ASSEMBLY:

Assembly bill No. 342, entitled "An act to amend chapter two hundred and ninety-one of the laws of eighteen hundred and seventy, entitled 'An act for the incorporation of villages,' relating to the collection of taxes," is herewith returned without approval.

The bill amends the general act for the incorporation of villages by authorizing the trustees to bring action for the

collection of poll taxes. The measure also goes to the extreme of providing that in such action no personal property of the debtor shall be exempt from levy and sale by virtue of an execution issued upon a judgment for a poll tax. I seriously question the desirability of such legislation and am unable to give it my approval.

ROSWELL P. FLOWER.

VETO, ASSEMBLY BILL INTRODUCTORY No. 1138,
TO AUTHORIZE THE ISSUANCE OF BONDS BY
THE CITY OF YONKERS.

STATE OF NEW YORK.

Executive Chamber,

Albany, April 5, 1892.

TO THE ASSEMBLY :

Assembly bill Introductory No. 1138, entitled "An act to provide for the payment of the expenses of the various elections to be held in the city of Yonkers in the year eighteen hundred and ninety-two, and authorizing the issuing of bonds therefor," is herewith returned without approval.

The reason presented for the enactment of this bill is that the amount allowed by the charter of the city of Yonkers to be raised annually for city expenses is not sufficient to cover the increased cost of elections under the new ballot law. The remedy which would naturally suggest itself for this state of affairs would be an amendment of the city charter increasing the limit of moneys allowed to be raised by taxation for the ordinary expenses of city government. The course which has been followed, however, has been to seek special legislation each year for the accomplishment of this particular purpose. Until the charter is amended, an act of this kind will

be necessary each year. Special legislation of this kind may be justifiable at times, but there is no reason why the Legislature should be compelled each year to provide for the payment of the election expenses of a municipality. I would gladly sign a bill properly modifying the city charter, but I cannot consistently permit this bill to become a law.

ROSWELL P. FLOWER.

VETO, ASSEMBLY BILL No. 49, TO CHANGE THE
BOUNDARIES OF PENN YAN VILLAGE.

STATE OF NEW YORK.

Executive Chamber,

Albany, April 6, 1892.

TO THE ASSEMBLY:

Assembly bill No. 49, entitled "An act to amend chapter one hundred and nineteen of the laws of eighteen hundred and eighty-nine, entitled 'An act to amend, revise and consolidate the laws in relation to the village of Penn Yan, in the county of Yates,' as amended by chapter one hundred and eighty-eight of the laws of eighteen hundred and ninety," is herewith returned without approval.

The object of this bill is to so change the boundaries of the village of Penn Yan as to exclude from the corporate limits of the village the property of a single taxpayer. There is no public sentiment in the village of Penn Yan, so far as I am aware, in favor of the bill, and the board of trustees is unanimously opposed to it. The bill has been before the Legislature before, but was defeated. I am informed, also, that two successive boards of trustees preceding the present board, without respect to party, also declared themselves in opposition to this proposed change of boundary lines.

ROSWELL P. FLOWER.

VETO, ASSEMBLY BILL No. 623, MAKING AN APPROPRIATION FOR IMPROVEMENT OF SARANAC RIVER.

STATE OF NEW YORK.

Executive Chamber,

Albany, April 6, 1892.

TO THE ASSEMBLY :

Assembly bill No. 623, entitled "An act to improve and clear Saranac river in Essex and Franklin counties, above the dam at Saranac lake in Franklin county, and making an appropriation therefor," is herewith returned without approval.

This measure appropriates twenty thousand dollars of public money for a local improvement in the vicinity of Saranac lake. I am unaware that any obligation is imposed upon the State to make this improvement, and, inasmuch as it will benefit local interests exclusively, the State, in my opinion, should not be called upon to pay the expense incurred. I do not think the people of the State will approve lavish appropriations for the benefit only of particular localities. It is the people's money which is thus voted away, and the same careful scrutiny should characterize its distribution that we as individuals would apply to the disposition of funds which we hold in trust for others.

ROSWELL P. FLOWER.

VETO, SENATE BILL No. 137, MAKING AN APPROPRIATION FOR DREDGING BLACK ROCK HARBOR AND THE ERIE BASIN.

STATE OF NEW YORK.

Executive Chamber,

Albany, April 6, 1892.

TO THE SENATE:

Senate bill No. 137, entitled "An act making an appropriation for dredging Black Rock harbor and the Erie basin," is herewith returned without approval.

The \$60,000 appropriated by this bill is reported by the Superintendent of Public Works to be necessary for the completion of the work of improvement in Black Rock harbor and the Erie basin, and the appropriation is asked for by representative business men of the city of Buffalo; but the amount of appropriations which are absolutely needed for canal improvement at this session of the Legislature is so large that all appropriations not immediately imperative ought, for economy's sake, to be deferred till another year, and with this view I am unable to give the bill my approval at the present time.

ROSWELL P. FLOWER.

VETO, SENATE BILL No. 247, MAKING AN APPROPRIATION FOR WORK ON A CANAL BRIDGE IN ROCHESTER.

STATE OF NEW YORK.

Executive Chamber,

Albany, April 6, 1892.

TO THE SENATE:

Senate bill No. 247, entitled "An act to provide for lengthening of abutments and widening of superstructure of the

bridge over Erie canal at Monroe avenue in the city of Rochester," is herewith returned without approval.

This measure is in violation of the declared policy of the State toward canal bridges, as expressed in chapter 366 of the Laws of 1891. The bill appropriates \$10,500 for the reconstruction of a bridge built by the State in 1887, still in good condition, and, in the opinion of the Superintendent of Public Works, of ample strength to bear any loads it is likely to receive. So far as the State's responsibility extends, there is no reason for the appropriation. The proposed reconstruction would be almost exclusively a local benefit, and its expense in my judgment should be borne, or at least shared, by the city of Rochester.

ROSWELL P. FLOWER.

VETO, SENATE BILL, NOT PRINTED, TO VALIDATE THE ASSESSMENT ROLL OF THE TOWN OF YORK, LIVINGSTON COUNTY.

STATE OF NEW YORK.

Executive Chamber,

Albany, April 6, 1892.

TO THE SENATE :

Senate bill, not printed, entitled "An act to confirm and levy certain assessments and taxes upon the persons, corporations and property lawfully taxable in the town of York, county of Livingston," is herewith returned without approval.

The apparent object of this bill is to validate the assessment roll of the town of York for the year 1891. The Legislature has the power to cure a certain class of defects and irregularities in the assessment and levy of taxes, and it has not the power to cure another class of defects. The distinction be-

tween the two classes of defects is clearly indicated by the Court of Appeals in its decision rendered December 22, 1891, *In Re Union College*, 41 N. Y. State Reporter, 640.

Upon the face of this bill there is no indication of the class of defects sought to be cured. The Legislature assumes itself to assess, levy and impose the tax in question; and further assumes: "such assessments hereby made and taxes hereby levied and imposed, being the same in amount as would have been legally assessed, levied and imposed upon and collected from said persons, corporations and non-resident land-owners in case the assessors of said town of York had fully complied with all the provisions of law."

There is nothing upon the face of the bill to indicate how the Legislature can know whether the amounts of the taxes the Legislature by this bill assumes to assess, are the same as would have been assessed by the assessors, if they had done their duty. There is nothing upon the face of the bill to indicate what duties the assessors omitted to perform.

The bill upon its face is unconstitutional for it assumes to assess and levy a tax without notice to the taxpayer. The assessment of a tax is a judicial rather than a legislative proceeding. It involves the taking of property of a citizen by the State, which cannot be done without due process of law, including notice to the citizen and an opportunity to be heard.

The unfortunate manner of drafting this bill also raises a serious question whether it complies with art. III, sect. 20 of the Constitution, that every law which imposes a tax shall distinctly state the tax and the object to which it is to be applied.

The bill might have been so drafted as to specify the precise defects sought to be cured, and to validate those defects, if in the power of the Legislature so to do. It is certainly

not too much to ask that a bill should be so intelligibly drawn that the Legislature and Executive can tell precisely what it proposes to do. This bill has once before during the present session of the Legislature reached the Executive but was recalled by the Legislature and a sufficient opportunity given for amendment in the respects indicated, but the bill has been again returned to the Executive without amendment.

A second objection to the bill is that it expressly proposes to affect pending litigation. While it is within the power of the Legislature to take pending cases out of the courts and fix the rights of the parties in cases like the present, it is respectfully submitted that such power should be exercised by the Legislature only in exceptional cases; and that parties to ordinary litigation should try their cases out in the courts and not apply to the Legislature to relieve them from anticipated defeat in pending law suits. There does not seem to be any sufficient reason why pending litigation should be affected as proposed by this bill.

ROSWELL P. FLOWER.

VETO, ASSEMBLY BILL No. 632, TO PROVIDE FOR
APPOINTMENT OF INSPECTORS OF ELECTION
IN COHOES.

STATE OF NEW YORK.

Executive Chamber,

Albany, April 8, 1892.

TO THE ASSEMBLY:

Assembly bill No. 632, entitled "An act relative to the appointment of inspectors and poll clerks of election in the city of Cohoes," is herewith returned without approval.

The facts before the Executive in his consideration of this bill are simple and his duty is plain.

The facts are these: On Tuesday next will occur the charter election of the city of Cohoes; there are three candidates for the office of mayor, two of whom are Democrats and one a Republican; the bill before me, which is urged only by the friends of one of the candidates, legislates out of office the present inspectors of election, who have held that position since July, 1891, and provides for a new set who shall be appointed immediately by the board of police commissioners and shall hold office until September first next, or practically for this election only. Thereafter the inspectors are to be appointed by the police commissioners, instead of being elected by the people as now provided by the city charter.

The question of preference in methods of choosing inspectors of election, whether by popular vote or by appointment, is a comparatively minor one at this juncture; the important and pressing question now being whether the law-making power will legislate one set of inspectors out of office and another set into office upon the eve of an election and concededly with the result of influencing the election.

The Executive does not feel that he can with propriety be a party to any such legislation. Whatever merits the proposed change of law may have in its abstract features it is an unjustifiable interference three or four days before a local election.

The inspectors of Cohoes served at the general election of 1891 and so far as I know their discharge of duty gave general satisfaction. They have already completed the registry of voters preparatory to the charter election. They are presumably familiar with their duties and ought to be better qualified than newly appointed officers to discharge these duties satisfactorily. The law moreover guarantees an honest election and makes ample provision for watchers to see that inspectors do not abuse their official trusts and privileges. There is already every proper legal safeguard for an honest count.

But besides working injustice by its ill-timed provisions, the bill violates the principle of Home Rule. It is opposed by the mayor of Cohoes and by the common council. It is opposed by a large portion of the citizens. It is not a subject of controversy merely between factions of the Democratic party in Cohoes; for it is opposed as unjust by the chairman of the Republican city committee, and by the member of the Republican State committee for that district, both of whom unite in a letter to me asserting that in their opinion "no Republican in Cohoes favors the bill."

Under such circumstances every fair-minded man must concede that this proposed legislative interference with municipal politics in Cohoes is both unbecoming and unjust. The people of that locality should be allowed to elect their officers and to settle their factional troubles in their own way and without direction or threat, through the medium of the Legislature, from citizens either of Albany or of Troy. The people of the State expect greater things of the law-making power than to jeopardize needed legislation by allowing itself to be used for no worthier purpose than the stirring up of strife between political leaders.

ROSWELL P. FLOWER.

VETO, ASSEMBLY BILL No. 686, GIVING THE BOARD
OF CLAIMS JURISDICTION IN THE CASE OF
CHRISTIAN BASSLER.

STATE OF NEW YORK.

Executive Chamber,

Albany, April 13, 1892.

TO THE ASSEMBLY:

Assembly bill No. 686, entitled "An act to authorize the State Board of Claims to hear, audit and determine the claim

of Christian Bassler against the State for injuries received at Messina Springs as a member of the National Guard, and to make an award therefor," is herewith returned without approval.

The bill is defective in form, failing as it does to indicate why recourse to the Board of Claims is necessary. It is probably also unconstitutional in fact, inasmuch as the claim, as between individuals, would now be outlawed.

ROSWELL P. FLOWER.

VETO, ASSEMBLY BILL No. 508, GIVING THE BOARD
OF CLAIMS JURISDICTION IN THE CASE OF
JOSEPH MILLIETE.

STATE OF NEW YORK.

Executive Chamber,

Albany, April 13, 1892.

TO THE ASSEMBLY :

Assembly bill No. 508, entitled "An act to authorize the Board of Claims to hear, audit and determine the claim of Joseph Milliete, against the State, for arrears of pay as captain of Company C, First United States Lancers Volunteers, and as captain of Company I, Ninth New York Cavalry," is herewith returned without approval.

The measure does not show on its face whether the claim is one which, as between citizens of the State, would not be barred by lapse of time ; while external evidence, readily accessible, shows that the claim is thus barred, more than six years having elapsed from the time it accrued. The bill is therefore unconstitutional under art. VII, section 14 of the Constitution.

ROSWELL P. FLOWER.

VETO, ASSEMBLY BILL No. 811, GIVING THE BOARD
OF CLAIMS JURISDICTION IN THE CASE OF
CARTER H. MORGAN.

STATE OF NEW YORK.

Executive Chamber,

Albany, April 13, 1892.

TO THE ASSEMBLY:

Assembly bill No. 811, entitled "An act to authorize the State Board of Claims to hear, audit and determine the claim of Carter H. Morgan against the State for damage to his property caused by the State in the construction of a channel from (part of the way), Oil Creek reservoir, town of Cuba, New York, to the Genesee Valley canal and for work and labor done for the State," is herewith returned without approval.

Legislation of this sort ought to indicate on its face in some way the reason for its existence. Under existing general laws the State Board of Claims already has jurisdiction over claims of this nature, and, so far as appears from the face of the bill, over this particular claim. If for any reason, as for failure to file the claim within the time limited by law, or otherwise, remedial legislation is necessary, the particular defects sought to be cured should be expressly stated in the bill, so that the Legislature and the Executive may know precisely what the measure purports to accomplish.

ROSWELL P. FLOWER.

VETO, ASSEMBLY BILL NO. 516, TO AMEND THE
CHARTER OF NEW YORK CITY IN THE MAT-
TER OF TENEMENT HOUSES.

STATE OF NEW YORK.

Executive Chamber,

Albany, April 13, 1892.

TO THE ASSEMBLY :

Assembly bill No. 516, entitled "An act to amend section six hundred and sixty-six of chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled 'An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York,' as amended by chapter eighty-four of the laws of eighteen hundred and eighty-seven, relating to tenement houses," is herewith returned without approval.

The chief provision of this measure is that which changes the definition of a tenement house from a home for three families or more to a home for four families or more, or from a home containing more than two families on a single floor to one containing more than three families on a floor. The effect would be to exclude from supervision by police and health officers in New York city all houses containing less than four families. It is estimated that this exclusion would comprise 5,000 houses, and would leave without sanitary supervision a class of buildings shown by official reports to be most in need of it.

This is a backward step in the line of tenement house reform and I am unable to assist it by my approval of the bill. The measure is opposed by the local board of health, by the Charity Organization Society, by the Sanitary Aid Society, by the State Charities Aid Association, and by other philanthropic

organizations. Its enactment would be especially detrimental to the poorer masses and would seriously jeopardize public health. No satisfactory reason has been offered why the bill should become a law, and I am convinced that its provisions are both unwise and dangerous.

ROSWELL P. FLOWER.

MEMORANDUM FILED WITH SENATE BILL No.
684, TO INCORPORATE THE GENERAL ELECTRIC COMPANY.—APPROVED.

STATE OF NEW YORK.

Executive Chamber,

Albany, April 15, 1892.

Memorandum filed with Senate bill No. 684, entitled "An act to incorporate the General Electric Company."—Approved.

The approval of this bill must not be considered as establishing a precedent for future legislation of this character. The measure is approved because it is claimed that its objects cannot well be secured under general laws, and because its approval will keep within the State a corporation which professes to be ready to invest a large amount of capital and which, without the concessions allowed by its proposed charter, would be incorporated under the laws of New Jersey. The reduction of tax for incorporation from one-eighth of one per cent. upon capital stock to one-twentieth of one per cent. is to make the tax uniform with that required by the law of New Jersey, so far as this corporation is affected.

The other concessions in the bill are mainly such as have already been incorporated in the amendments to the Stock Corporation law which are now pending in the Legislature and

which seem likely to be passed before the close of the session. These indicate a growing sentiment in favor of less severe restrictions in our corporation laws to the end that the investment of capital may be encouraged within the State. This is in line with the recommendations of my annual message and reveals a tendency which in my judgment is wise and will result beneficially to industrial and commercial interests.

ROSWELL P. FLOWER.

VETO, ITEMS IN ASSEMBLY BILL No. 1043, — THE
APPROPRIATION BILL.

STATE OF NEW YORK.

Executive Chamber,

Albany, April 16, 1892.

TO THE ASSEMBLY:

The several items herein enumerated and contained in Assembly bill No. 1043, entitled "An act making appropriations for the support of government," are objected to and not approved for the reasons hereinafter stated.

"For the expenses of the board of Port Wardens, four thousand five hundred dollars."

This item is objected to and not approved. Previous to 1891 these expenses were paid out of the receipts of the Port Wardens from the official fees, etc. It was urged at that time as a reason for putting the burden of their payment upon the State that the receipts of the office had been decreasing in years past and were insufficient to pay expenses and at the same time to leave as large an amount as previously to be divided among the Port Wardens for compensation. Nevertheless I am informed that the receipts from fees are sufficient

still to yield generous compensation for the services rendered, and the numerous applications for appointment to the office indicate quite clearly that the emoluments are eagerly sought and the duties not regarded as being sparingly rewarded. I do not think it just for the State to bear this expense until it can be demonstrated beyond question that the revenues of the office are insufficient to allow proper compensation to the incumbents.

“For books, serials, binding and other proper expenses of maintenance of the State Medical Library, pursuant to chapter three hundred and seventy-seven of the laws of eighteen hundred and ninety-one, two thousand dollars.”

This item is objected to and not approved. It is unconstitutional. The Constitution provides that “the capital of the common school fund, the capital of the literature fund, and the capital of the United States deposit fund, shall be respectively preserved inviolate.” This appropriation is payable from the capital of the United States deposit fund and is therefore unlawful.

I congratulate the Legislature upon the care with which this appropriation bill has been drafted. While the cost of government must necessarily increase with the increase of the State's resources, its variety of interests and its population, a due regard for economy seems to have been exercised in fixing the appropriation herein contained, and with the exception of the items above enumerated no unnecessary or unwise items seem to have been inserted. Such economy and regard for public interest deserve, as I have no doubt they will receive, cordial approbation from the people, and I take pleasure in recognizing the fact in this official communication.

ROSWELL P. FLOWER.

VETO, ASSEMBLY BILL No. 351, TO ESTABLISH A
STATE PRINTING OFFICE.

STATE OF NEW YORK.

Executive Chamber,

Albany, April 18, 1892.

TO THE ASSEMBLY:

Assembly bill No. 351, entitled "An act to establish a State printing office and to create the office of Superintendent of State Printing," is herewith returned without approval.

In accepting a nomination to the high office which I have the honor to hold I promised, if elected, to give the State a plain business administration. I would be false to that pledge and untrue to my own convictions if I were to approve in my official capacity a measure which involves what I believe to be an unsound business proposition and a menace to honest and economical administration.

As guardians of the people's interests and as custodians of their money, the only legitimate question before the Legislature and the Executive in the consideration of this bill is whether the establishment of a State printing office will promote economy in the public expense and improve official service. The latter result would depend almost wholly upon conditions impossible now to predicate, but the matter of expense can be estimated with reasonable accuracy, and after a careful investigation of the question and with the fullest disposition to reach the actual facts I cannot avoid the conclusion that the assumption of this undertaking by the State would mean the imposition of greater burdens year by year upon the taxpayers without any corresponding benefit.

The State printing is now let by contract to the lowest bidder. The competition among bidders is brisk and results in comparatively low prices for the work done. If the contracts

are not fulfilled the State has an immediate remedy. The contractor, and not the State, is responsible for loss. The system has worked satisfactorily and in recent years, at least, has suffered no abuse.

Clearly the only advantage, as regards expense, in the State's establishing and maintaining a public printing office would be to save the margin of profit which now goes to the individual contractor. That profit is not large, and in my opinion would be more than wiped out by the increased cost of maintaining a State establishment.

There are several considerations which support this view. In the first place the capital necessary to be invested would be large. The hundred thousand dollars appropriated by this bill is not, in my judgment, sufficient, and annual appropriations would be necessary for improvements, repairs and new machinery. The element of competition being removed, moreover, the stimulus to economy would not exist. The Legislature would regulate the hours of labor and perhaps the rate of wages; while political influences would affect the employment and discharge of workmen. Again, the demand for printing is comparatively small except when the Legislature is in session, and while a large printing plant would be essential during five or six months in the year, a small one would answer all present purposes during the remainder of the year. This would practically impose upon the State the unnecessary expense of maintaining a large plant all the year round.

But beyond all this the establishment of a State printing office would encourage extravagance in printing. The experience of the government printing office at Washington demonstrates this very clearly, if indeed demonstration be needed to convince anybody of so apparent a result. Two influences would be constantly working to that end — the pressure from

various sources, official and unofficial, to have printing done at public expense, and the political pressure exerted by friends of the employes to increase the amount of work to be done and therefore the number of persons to be employed.

The Legislature will not forget that in the message which I had the honor to submit at the beginning of the present session I called attention to the rapid increase of new offices, bureaus and commissions in connection with the State government, and pointed out that the annual cost of this gradual extension of State functions had increased in ten years from \$18,000 to \$800,000; and I said at that time in protesting against this tendency: "The closest scrutiny should be applied to every demand for the creation of any additional office, and it should not receive legislative sanction until its need is established beyond question. * * * Lavish use of public money is a dangerous foe to public morals and to official administration."

The provisions of the bill before me, if my predictions as to their effect are well founded, are certainly inconsistent with that expression of what should constitute public policy. I have always believed firmly in the principle that the State should do nothing that individual enterprise could accomplish as well. Individual enterprise in my opinion can do the State's printing more economically and as satisfactorily as the State could do it, and for this reason I am unable to approve this measure.

I am aware that in some quarters the bill is urged not so much from a conviction that it would be in the public interest, as from a belief that it would improve the condition of one class of workers, namely, those employed in the art of printing. To their credit be it said that no such reason has been presented to me by any typographical union in the State for the enactment of this bill. As a member of one of the first labor organizations in the State and as an earnest friend of honest

labor I have had too intimate acquaintance with the men of those organizations and I have too much respect for their intelligence to believe that they desire the State to establish any bureau of government for their exclusive benefit. Clearly any measure whose enactment is urged upon the ground that it will help one class of workers at the expense of other classes is un-American and un-democratic. It is an injury to every laborer not of that favored class, and to that extent promotes industrial discontent. If the State is to legislate in the particular interest of type-setters, it cannot consistently refuse to legislate in the interest of other men who are engaged in industries which furnish labor or supplies to the State, and the logical sequence of a bureau of printing would be a bureau of building supplies, or a bureau of school furnishings. By such undertakings the State invades the domain of private industry, and instead of conferring benefits creates that industrial disturbance which always follows artificial interference with the natural laws of business.

A State printing establishment would create no new employment except in so far as it undertook extravagant and unnecessary work; it could create no higher wages without the increase coming out of the pockets of the people. Whatever benefits it might confer upon the few people to whom it gave employment would be burdens imposed upon the large majority of taxpayers.

ROSWELL P. FLOWER.

VETO, SENATE BILL No. 127, FOR THE RELIEF
AND SUPPORT OF PAUPERS.

STATE OF NEW YORK.

Executive Chamber,

Albany, April 18, 1892.

TO THE SENATE:

Senate bill No. 127, entitled "An act for the relief and support of paupers," is herewith returned without approval.

An act embodying essentially the same features that this bill contains, only less radical — namely, chapter 546 of the Laws of 1885 — was practically repealed by the amendatory act of 1888 (chapter 486) after three years' trial, because it was found to be unsatisfactory in its operation and productive of vexatious litigation between the authorities of one town or county and those of another town or county. There seems to be no general sentiment in favor of this bill, while I have received many protests against its enactment, and I am bound to assume on the face of the testimony before me that there is no public demand for a return to practically the same law that existed from 1885 to 1888. While I am willing to admit that the existing law relating to the care of non-resident paupers is not sufficiently explicit and could be wisely amended, I am of the opinion that the proposed bill is too sweeping in its provisions and would make unnecessary controversy between counties as to their respective responsibility.

ROSWELL P. FLOWER.

MEMORANDUM FILED WITH ASSEMBLY BILL No.
21, AMENDING THE CHARTER FOR RAILWAYS
IN UPPER NEW YORK CITY.—APPROVED.

STATE OF NEW YORK.

Executive Chamber,

Albany, April 20, 1892.

Memorandum filed with Assembly bill No. 21, entitled "An act to amend chapter three hundred and sixty-one of the laws of eighteen hundred and sixty-three, entitled 'An act to authorize the construction of a railway and tracks in the towns of West Farms and Morrisania,' and all acts amendatory thereof." — Approved.

The provisions of this bill have been so variously misconstrued that a statement of what it does is deemed appropriate at the present time.

The bill grants no new charter; it merely amplifies the powers of a company incorporated by special legislative act in 1863.

The original charter, as at various times amended, has given the company a franchise to lay tracks on certain streets and avenues north and east of the Harlem river, in what is popularly known as the "annexed district." The company by virtue of these prior acts can charge certain rates of fare, and is compelled to keep the surface of the streets inside the rails and for one foot outside in good and proper repair, although there is no requirement to pave the same. The company is not required to pay any proportion of its earnings to the city treasury and is subject to practically none of the restrictive provisions which apply to street railroad corporations organized under later statutes.

By this additional legislation the company gains chiefly three objects—it may consolidate its capital stock and property with the capital stock and property of any other street surface railroads in the annexed district of New York and in Westchester county, and with any street railroad whose southern terminus is not more than one thousand feet south of any bridge across the Harlem river; it may increase its capital stock to an amount not exceeding two million dollars; and it may increase its issue of bonds. The first of these privileges can only be obtained by special legislation.

As against these privileges the Legislature has imposed the following conditions:

1. That the company shall assume and perform all conditions, burdens, obligations and liabilities, imposed by law or contract upon any railroad company with which it shall consolidate or which it shall buy or lease.

2. That when the gross earnings of the company or of its lessees shall average \$1,700 a day for a period of six months it shall pay annually to the city of New York one per cent. of its total gross earnings thereafter, and an additional per cent. for every multiple of \$1,700 of daily gross earnings.

Thus by this bill the company is not empowered to lay a single foot of additional track; its extensions must all be subject to the provisions of existing general laws. Moreover, instead of the city's receiving no remuneration for the privileges granted, as at present, a constantly increasing remuneration will be received under the provisions of this bill, should the railroad in time prove to be a sufficiently profitable enterprise.

In addition to these features of the bill the company is exempted from the provisions of the Cantor act, requiring the sale of franchises at public auction to the highest bidder; from the provisions of the general surface railroad law relative to payment of a percentage of gross receipts to the city, and

from section 98 of the general railroad law relative to repair of streets, etc. But the original company was not restricted by any such provisions as these and it is difficult to see how in justice such restrictions should be imposed merely as a consideration for the privileges sought by this measure. But the Legislature has in spite of the original exemptions imposed a moderate condition in the way of percentage of gross receipts, and also in the matter of repair of streets.

I am convinced that the legislation desired will be of great benefit to the annexed district of New York in affording means of transit in a territory which has suffered greatly from lack of sufficient means of communication, and I believe it is good public policy to encourage such laudable enterprise. The measure in my judgment is well-guarded, and whatever special privileges it may seem on superficial examination to bestow will be found upon closer scrutiny to be the grant of old legislative acts and not of this new law.

ROSWELL P. FLOWER.

VETO, ASSEMBLY BILL No. 1430, FOR THE PURCHASE OF ADDITIONAL LAND FOR THE STATE ASYLUM AT MATTEAWAN

STATE OF NEW YORK.

Executive Chamber,

Albany, April 20, 1892.

TO THE ASSEMBLY:

Assembly bill No. 1430, entitled "An act to provide for the acquisition by the people of the State of New York of sufficient land or right therein to construct an outlet sewer from the State Asylum for Insane Criminals at Matteawan to the

Hudson river, and making an appropriation therefor," is herewith returned without approval.

The bill is defective in the provision which requires that proceedings for the condemnation of necessary lands to be bought shall be in accordance with the requirements of chapter 565 of the Laws of 1890. The reference should have been to chapter 95 of the Laws of 1890. There is no provision regulating condemnation proceedings in chapter 565.

ROSWELL P. FLOWER.

VETO, ASSEMBLY BILL No. 767, FOR AN ADDITIONAL EVENING HIGH SCHOOL IN NEW YORK CITY.

STATE OF NEW YORK.

Executive Chamber,

Albany, April 20, 1892.

TO THE ASSEMBLY:

Assembly bill No. 767, entitled "An act to provide for an evening high school in the city of New York," is herewith returned without approval.

This bill is opposed by all the commissioners of education in the city of New York, and the president of the board has joined with the city superintendent of schools in requesting me to withhold my signature from the measure. Chapter 34 of the Laws of 1889 already authorizes the board of education to establish additional evening high schools when in their judgment there is need of additional educational facilities of this kind, and there is no necessity therefore for the enactment of this bill.

ROSWELL P. FLOWER.

VETO, ASSEMBLY BILL No. 1421, FOR THE APPOINTMENT OF A RECORDER FOR THE VILLAGE OF NORWICH.

STATE OF NEW YORK.

Executive Chamber,

Albany, April 20, 1892.

TO THE ASSEMBLY:

Assembly bill No. 1421, entitled "An act providing for the appointment of a recorder for the village of Norwich, New York, and prescribing his powers and duties," is herewith returned without approval.

The bill is probably in violation of section 16, article III of the Constitution, inasmuch as the measure embraces both the appointment and election of a recorder for the village of Norwich, while the title only relates to the appointment of such an officer.

So far as the measure itself is concerned its object can already be accomplished by section 75 of the Code of Criminal Procedure.

ROSWELL P. FLOWER.

VETO, SENATE BILL No. 450, RELATING TO SCHOOL DISTRICTS IN LIVINGSTON COUNTY.

STATE OF NEW YORK.

Executive Chamber,

Albany, April 20, 1892.

TO THE SENATE:

Senate bill No. 450, entitled "An act to amend chapter one hundred and ninety-nine of the laws of eighteen hundred and eighty-seven, entitled 'An act to amend chapter seven hundred

and twenty-seven of the laws of eighteen hundred and sixty-six, entitled "An act to consolidate school districts numbers one, three and fifteen, and part of district number two of the town of Mount Morris, county of Livingston and State of New York, into one school district,"" is herewith returned without approval.

This bill purports to amend section 5 of an act which has but three sections. It amends section 5 of chapter 199 of the Laws of 1887, when it was evidently intended to amend section 5 of chapter 727 of the Laws of 1866 as amended by section 1 of chapter 199 of the Laws of 1887. Moreover section 5 of the act of 1886 was again amended by chapter 267 of the Laws of 1888, and even if this bill should be construed according to its intention instead of its language, it seems in amending the amendatory act of 1887 to ignore the existence of the further amendatory act of 1888, which appears to cover substantially the same ground intended to be covered by this bill.

ROSWELL P. FLOWER.

VETO, ITEMS IN ASSEMBLY BILL No. 1236,— THE
SUPPLY BILL.

STATE OF NEW YORK.

Executive Chamber,

Albany, April 20, 1892.

TO THE ASSEMBLY:

The several items herein enumerated, contained in Assembly bill No. 1236, entitled "An act making appropriations for certain expenses of government and supplying deficiencies in former appropriations," are objected to and not approved for the reasons hereinafter stated.

"For the Comptroller, for the payment of fees and disbursements of commissioners appointed by the Governor, and of stenographers and their disbursements, and other necessary expenses in the investigation of charges against public officers, the sum of four thousand one hundred and fifty dollars, or so much thereof as may be necessary, to be paid upon vouchers therefor to be approved by the Comptroller."

Chapter 323 of the Laws of 1874 provides that, in all proceedings before the Governor for the removal of any county officer upon charges preferred against him, all the costs and expenses thereof, including those of taking and printing the testimony therein, shall be a county and not a State charge. I see no reason for departing at the present time from this established policy of the State, and I am unable therefore to give this item my approval.

"For repairs and betterments of State arsenals, armories, and State camp, the sum of twenty-five thousand dollars, or so much thereof as may be necessary."

I am informed that there is an unexpended balance of considerable amount remaining in the treasury from the appropriation for this purpose last year and that no additional amount is absolutely necessary for the next fiscal year. The item is therefore objected to and not approved.

"For the Adjutant-General, for improvement of the State rifle range at Creedmoor, for repairing fences and building new ones, repairing old targets, pits and butts and completing new, and building additional ones and for grading grounds and removing buildings, the sum of ten thousand dollars."

This item is objected to and not approved for the reason that the appropriation is not deemed expedient at the present time.

"For Forest Commission, for reimbursing its maintenance fund for moneys expended therefrom, for counsel fees and printing its annual report for eighteen hundred and ninety-one, the sum of four thousand dollars, or so much thereof as may be necessary."

This item is objected to and not approved for the reasons stated in the objection to the last preceding item.

"For the three State boards of medical examiners for traveling expenses in attending necessary meetings, payable on vouchers approved by the Comptroller, twelve hundred dollars, or so much thereof as may be necessary, to meet the deficiency caused in the provision for such expenses by chapter three hundred and eleven of the laws of eighteen hundred and ninety-one exempting medical students from the payment of examination fees."

The information before me does not justify my approval of this item. The intention of the law creating State boards of medical examiners was not to involve the State in any expense. The expenses of the medical examiners were to be paid out of the examination fees, and the examiners were to be the beneficiaries of all surplus receipts. While the amendatory act of 1891, chapter 311, may have diminished the amount of fees received, I am not convinced that any temporary deficiency should be paid out of State revenues. The item is therefore objected to and not approved.

"For the State Asylum for Insane Criminals at Matteawan, to be expended under the direction of the Superintendent of State Prisons, for wagon scales, shelter houses, walks, farm barns, road making and other improvements, the sum of eleven thousand four hundred dollars."

This item is objected to and not approved because the expenditure is deemed excessive at the present time.

"For the Buffalo State Hospital, to be expended under the direction of the local board of managers, for the erection of an additional ward adjacent thereto, and west of the ward recently built for the accommodation of two hundred patients, the sum of two hundred thousand dollars; no part of this appropriation shall be expended, except for procuring plans and specifications, approved or to be approved by the Comptroller, until a contract or contracts shall have been entered into by the lowest responsible bidder or bidders, after suitable advertisement for the completion of the work contemplated and the purchase of materials therefor, within the limit of this appropriation; and the contract shall provide that not more than eighty-five thousand dollars from this appropriation shall be required to be paid thereon by the State within one year from the date of such contract; and for installing an electric light plant, and fixtures for the entire hospital, the sum of sixteen thousand dollars."

I am informed that this appropriation can be deferred until some other year without embarrassment to the institution or

detriment to public interests. In view of the large appropriations for hospital purposes, which are absolutely needed during the present year, this appropriation, in my opinion, should be postponed until such time as the State shall be better able to incur the expense.

"For the Hudson River State Hospital, for installing an electric light plant, ten thousand five hundred dollars."

While the introduction of electricity in the place of gas as a means of illuminating public buildings, and especially public hospitals, would probably be advantageous to those institutions, I do not think an appropriation for this purpose is advisable at the present time. For this reason the item is objected to and not approved.

"For the Hudson River State Hospital, for fire protection in new building of the male department, ten thousand dollars."

This building, I am informed, does not exceed two stories in height. The appropriation for fire protection is not approved by the Commission in Lunacy who have made an investigation into the necessity for the desired expenditure, and I accept their judgment in the matter and interpose my objection to the item becoming law.

"For the Binghamton State Hospital, to be expended under the direction of the local board of managers, for installing an electric light plant, fifteen thousand dollars."

This item is objected to and not approved for the reason stated in the objection to a similar item for establishing an electric light plant in the Hudson River State Hospital.

"For the Binghamton State Hospital, for three hot water generators, thirteen hundred and fifty dollars; for erecting cottage for engineer, fifteen hundred dollars; for building shed for housing dry lumber, five hundred and fifty dollars."

These expenditures are not considered necessary by the State Commission in Lunacy and are therefore disapproved.

"For the Binghamton State Hospital, for covering for steam pipe, two thousand dollars."

This item is believed to be excessive. I am informed by those who have made a special investigation of the work required, that half the amount would have been sufficient for the purpose. The item is therefore objected to and not approved.

"For the Custodial Asylum for Feeble-Minded Women, at Newark, to be expended under the direction of the local board of managers, for the purchase of two lots adjacent to the grounds of the asylum, with buildings thereon, five thousand two hundred dollars, or so much thereof as may be necessary, to be approved by the Attorney-General as to title and by the Comptroller as to price."

While this appropriation may be desirable, there is no pressing necessity for it at present, and, in my judgment, it can wisely be deferred until some other year. The item is therefore disapproved.

"For the New York Institution for the Blind, at Batavia, for enlargement of its collection of plaster casts and other forms for object teaching, twenty-five hundred dollars."

This item is objected to and not approved for the reason stated in the objection to the last preceding item.

"For securing additional instruction in the several State prisons, fifteen hundred dollars, or so much thereof as may be necessary, to be expended under the direction of the Superintendent of State Prisons."

This item is objected to and not approved for the reason that the expenditure is not deemed necessary or expedient at the present time.

"For the Auburn Prison, to be expended under the direction of the Superintendent of State Prisons, for the construction of a stone warehouse and the purchase of materials therefor, and for the employment of foremen in the work of quarrying the stone and the construction of the building, seven thousand five hundred dollars, or so much thereof as may be necessary."

This item is objected to and not approved. The interests of the State have required so many large appropriations at the

present session of the Legislature that it is believed to be wise to defer any expenditure for this purpose until some other time.

"For repairs of highways and bridges on the Onondaga Indian reservation, to be expended under the direction of the Superintendent of Public Works as follows: On the road and bridges known as the Cardiff road, twelve hundred dollars; on the road and bridges known as the Quarry road, four hundred dollars, and on the road and bridges known as the South Onondaga road, four hundred dollars."

I am convinced that these appropriations can be dispensed with during the present year, and I therefore withhold my approval from them.

"For a fish-way in the dam at Ogdensburg, eight thousand dollars; for a fish-way in the dam at Rossie, three thousand dollars; for the purchase of the dam at Pope's Mills, three thousand dollars, or so much thereof as may be necessary; for cleaning and deepening the Indian river from Rossie to Black lake, one thousand dollars; for cleaning and deepening Fish creek from Pope's Mills to Black lake, one thousand five hundred dollars; for cleaning and deepening Black creek from Butterfield lake to Black lake, five hundred dollars; the building of the fish-ways and cleaning and deepening of Indian river and Black and Fish creeks shall be done by the State Engineer and Surveyor under contract let, after advertisement, to the lowest bidder, and shall be completed by September first, eighteen hundred and ninety-two; the plan of the fish-ways shall be approved by the State Commission of Fisheries and the United States Fish Commissioner; the dam at Pope's Mills shall be purchased by the Attorney-General and if he can not agree with the owners on a price for the same he shall proceed to have it appraised and condemned for public uses. The moneys to be paid for building the fish-ways at Ogdensburg and Rossie, and deepening and cleaning the Indian river and Fish and Black creeks, shall be paid on the certificate of the State Engineer and Surveyor upon the warrant of the Comptroller, and the money to be paid for the dam at Pope's Mills shall be paid on the certificate of the Attorney-General upon the warrant of the Comptroller."

I understand that these appropriations are to enable the State to cooperate with the Federal government in maintaining the fish hatchery near Theresa, for which Congress has already appropriated five thousand dollars. In my judgment, this undertaking, having been assumed by the United States government, should be left to the discretion of Federal authori-

ties. I do not think the public interests require an appropriation from the State treasury of so large an amount as is included in the items above quoted, and they are therefore objected to and not approved.

“For carrying out the provisions of chapter three hundred and three of the laws of eighteen hundred and ninety-one, entitled ‘An act to promote wider extension to the people of opportunities for education,’ the sum of ten thousand dollars.”

Referring to the subject of university extension, I said in my annual message :

“For the first time in the history of the movement, however, direct government aid and encouragement have been given, in the statute which was enacted by the last Legislature of this State, authorizing the Regents of the University to act as the central head for the promotion of this work and appropriating \$10,000 for their expenses.

“Inasmuch as this work is quite likely to be still further brought to your attention and another appropriation asked for, I do not hesitate to express my opinion that the assumption of this duty by the State was not only unwise in principle, but that if the movement is as successful here as it has been elsewhere it will involve the State in unreasonable obligations and be a constantly increasing object of public expense.

“I am aware that it has been the policy of the State to encourage higher education, and that public moneys have been appropriated for that purpose, but I respectfully submit that before the State should enlarge its field of usefulness in that direction — whatever views we may have as to the propriety of that enlargement — it should first perfect its system of common school education. * * *

“My fears that the State will eventually find the control and supervision of university extension an enormously expensive undertaking, wrong in principle because it taxes the majority for the benefit of the few, and indefensible as State policy except under the broadest view of public welfare, are based chiefly upon the testimony of those who have been most closely

identified with the new movement and upon the tendency of the movement where it has been longest tried."

In view of this expression of my convictions, which have not since changed, I am unable to approve this item. I sympathize thoroughly with the object of the so-called university extension movement; but I think it should be undertaken by individual enterprise rather than by the State.

"For the board of commissioners created by chapter two hundred and seventy of the laws of eighteen hundred and eighty-eight, for rip-rap work and other improvements upon the quarantine islands and other property of the establishment, to protect them against the encroachment of the sea the sum of forty-two thousand dollars."

This item is objected to and not approved on the ground that the expenditure is not deemed expedient at the present time.

"For mounting, preserving and completing the collection of domestic fowls and arranging them in cases, in the agricultural museum, twenty-five hundred dollars."

In my judgment this appropriation can be wisely deferred; I am unable, therefore, to give it my approval.

"For the Board of Port Wardens of the port of New York, for office expenses from April thirteenth, eighteen hundred and ninety-two, till the close of the current fiscal year, eighteen hundred and seventy-five dollars, or so much thereof as may be necessary."

This item is objected to and not approved for the reason stated in my objection to a larger item for a similar purpose contained in the annual appropriation bill. I respectfully refer the Legislature to my communication upon that subject to the Assembly on the 16th instant.

"For the State Law Library at Binghamton, for the purchase of law books, to be expended under the direction of the Justice of the Supreme Court residing at Binghamton, twenty-five hundred dollars."

This item is objected to and not approved for the reason that the appropriation is not deemed expedient at the present time.

"For the American Museum of Natural History in the city of New York, for continuing instruction in natural history and kindred subjects to the State normal schools, the Normal College of the City of New York, the Training School for Teachers in the city of Brooklyn, the teachers' institutes in the several counties of the State, and to the teachers in the common schools of the city of New York, Brooklyn and vicinity, during the year commencing January first, eighteen hundred and ninety-two, as provided by chapter forty-three of the laws of eighteen hundred and ninety-one, the sum of fifteen thousand dollars."

Without expressing an opinion as to the value of the lectures provided for in this item, I do not think the State should incur so large an expenditure for that purpose at the present time. In the interest of wise economy, therefore, the item is objected to and not approved.

"For books, serials, binding and other necessary expenses of maintaining the State Medical Library, pursuant to chapter three hundred and seventy-seven of the laws of eighteen hundred and ninety-one, the sum of five thousand dollars."

This item is objected to and not approved for the reason that the appropriation is not deemed advisable at the present time.

ROSWELL P. FLOWER.

PROCLAMATION CONVENING THE LEGISLATURE IN EXTRAORDINARY SESSION.

STATE OF NEW YORK.

Executive Chamber.

Pursuant to the power vested in me by section 4 of article IV of the Constitution, I hereby convene the Legislature in Extraordinary Session at the Capitol in the city of Albany on the twenty-fifth day of April, 1892, at 8:30 o'clock in the evening.

Done at the Capitol in the city of Albany, this twenty-[L. S.] first day of April in the year of our Lord one thousand eight hundred and ninety-two.

By the Governor: ROSWELL P. FLOWER.

T. S. WILLIAMS,

Private Secretary.

MESSAGE RECOMMENDING LEGISLATIVE RE-
APPORTIONMENT.

STATE OF NEW YORK.

Executive Chamber,

Albany, April 25, 1892.

TO THE LEGISLATURE:

You have been convened in extraordinary session pursuant to the power vested in me by article IV, section 4 of the Constitution.

I recommend for your consideration the subject of a reapportionment of members of Assembly among the several counties of the State and an alteration of Senate districts, in conformity with the provisions of the Constitution.

The organic law of the State, recognizing the right of the people to fair representation in the Legislature, provides for an enumeration of the inhabitants at the end of every ten years, and directs that a reapportionment of Senate and Assembly districts shall be made "at the first session after the return of every enumeration."

Such an enumeration, although neglected in defiance of constitutional obligation for seven years, has at last been taken, and the return thereof was made to the Legislature at its recent session. It is now the duty of the law-making power to apportion members of Assembly among the counties in proportion to the number of their respective inhabitants, excluding aliens, and to so alter the existing Senate districts that each will contain as nearly as may be an equal number of inhabitants.

The performance of that duty in a manner satisfactory to the people of the State is not without difficulty, but personal and political considerations should be subordinated as much as

possible to the purpose of securing for each locality its fair proportion of representation. The task is rendered the more difficult by reason of the fact that the existing apportionment was not only unfair at the time of its enactment, but has become more and more unfair with the changes of population. Under a fair division of members of Assembly, therefore, some counties must make sacrifices and suffer a reduction in their representation. But such sacrifices should be made willingly, and I trust the Legislature will approach its task with a conciliatory disposition, determined to discharge its duty impartially and to heed the demand of the people for a fairer system of legislative representation.

ROSWELL P. FLOWER.

PROCLAMATION OFFERING A REWARD FOR THE
CAPTURE OF THOMAS O'BRIEN, CONVICT.

STATE OF NEW YORK.

Executive Chamber.

Whereas, it is represented to me that on the 20th day of April, 1892, in the city of Utica, Thomas O'Brien, a convict from Clinton Prison at Dannemora, made his escape from the officer in whose custody he had been temporarily placed ; and

Whereas, the Superintendent of Prisons has requested me to offer a suitable reward for the capture and return of said convict ;

Now, therefore, in pursuance of the said request, and by virtue of the authority in me vested under the Constitution and laws of this State, I do hereby offer a reward of two thou-

sand and five hundred dollars to be paid for the capture and return to Clinton Prison of said Thomas O'Brien.

Given under my hand and the privy seal of the State, at the Capitol in the city of Albany, this twenty-fifth
[L. S.] day of April in the year of our Lord one thousand eight hundred and ninety-two.

ROSWELL P. FLOWER.

By the Governor :

T. S. WILLIAMS,
Private Secretary.

APPOINTMENT OF AN EXTRAORDINARY COURT OF OYER AND TERMINER AT NEW YORK.

STATE OF NEW YORK.

Executive Chamber.

IT APPEARING to my satisfaction that the public interest requires it :

Therefore, In accordance with the statute in such case made and provided, I do hereby appoint an Extraordinary Court of Oyer and Terminer to be held at the court-house in the city of New York, on Monday, the twenty-third day of May next at ten o'clock in the forenoon of that day, and to continue so long as may be necessary for the disposal of the business that may be brought before it; and I do hereby designate the Hon. GEORGE L. INGRAHAM, a Justice of the Supreme Court, to hold the said Extraordinary Court of Oyer and Terminer.

And I direct the district attorney of the city and county of New York to issue a precept in accordance with the statute in such case made and provided, directed to the sheriff of said

city and county of New York, requiring him to do and perform all that may be necessary on his part in the premises.

And I do further direct that notice of such appointment be given by publication thereof once in each week for three successive weeks in *The Argus*, a newspaper published at Albany, and in *The Sun*, a newspaper published at the city of New York.

Given under my hand and the privy seal of the State, at the Capitol in the city of Albany, this twenty-sixth
[L. S.] day of April in the year of our Lord one thousand eight hundred and ninety-two.

ROSWELL P. FLOWER.

By the Governor:

T. S. WILLIAMS,

Private Secretary.

MEMORANDUM FILED WITH ASSEMBLY BILL
No. 1296 AMENDING THE ELECTION LAW
FOR NEW YORK CITY.—APPROVED.

STATE OF NEW YORK.

Executive Chamber,

Albany, April 30, 1892.

Memorandum filed with Assembly bill No. 1296, entitled "An act to amend chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled 'An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York,' with reference to the appointment of inspectors of elections and their duties."—Approved.

This bill accomplishes the desirable object of making the election law for New York city substantially uniform, as

regards inspectors of elections, with that prevailing elsewhere in the State.

Except in the cities of New York and Brooklyn the law everywhere provides, either by appointment or by election, for three inspectors of election in each election district, two of whom shall belong to the majority party and one to the minority party. In New York city there are four election inspectors, two of whom belong to one party and two to the other.

The law for the remainder of the State has existed for many years and causes no opposition. Successive Legislatures have not changed its essential features. Public sentiment generally upholds it.

If it is a good law for the rest of the State, it ought to be a good law for New York city. Election laws ought as far as possible to be uniform throughout the State.

Uniformity in such an important particular as that of election inspectors is desirable as a matter of political justice. I make no excuse for referring to political parties in discussing a measure of this kind. The fact exists, and must be plainly recognized, that the law at present discriminates between the city of New York, whose vote is overwhelmingly Democratic, and the remainder of the State, whose vote is Republican. The minority party in New York is given equal representation in boards of election inspectors with the majority party; while outside of New York (and Brooklyn) the minority party has only one-third the representation allowed to the majority party. No good reason exists why a different principle should be applied to a Democratic community than is applied to a Republican community. If boards of inspectors, a majority of whom are Republicans, are safe and economical in the Republican strongholds of the State, boards of inspectors, a majority of whom are Democrats, ought to be equally safe and economical in the Democratic strongholds.

I venture to say that it would be impossible to apply the system of boards of inspectors now in vogue in New York and Brooklyn to the remainder of the State. The opposition to such a change, both on political and economical grounds, would be sufficient to defeat it in the Legislature. The argument on the ground of economy is as applicable to the city of New York as to the rest of the State. The alternative, therefore, if our election laws are to be uniform, economical and just is to include the cities of New York and Brooklyn under the operation of the same principle which now applies to the remainder of the State.

The present system of boards of election inspectors in New York directly encourages an evil which has become as notorious as it is scandalous. At every election in New York at which Federal officers are chosen, the polls are manned by United States deputy marshals, who at the instigation of the Federal Supervisor of Elections, for purposes of political intimidation, make wholesale arrests of innocent persons offering to vote, compel them to give bail or go to Ludlow Street Jail, and thus, in most cases, effectually deprive them of the privilege of voting. Hundreds of such arrests are made on every election day and no prosecutions follow. It is a species of political tyranny which has rightly received the condemnation of all fair-minded persons, and flourishes chiefly because of a board of inspectors of whom half are ready to assist the work of intimidation by refusing to take the votes of persons thus challenged. Any law which, proper in other respects, will help to abolish this political iniquity, will always have my hearty approval.

It is perhaps significant of the insincerity of much of the opposition to this measure, that the persons who are most vehemently urging me to withhold my signature from the bill are the same persons who have for years defended the applica-

tion of the same principle in the legislation affecting the remainder of the State, who are even now defenders of such methods of political intimidation as I have described above, and who only a short time ago were loudly urging the enactment by Congress of a Force bill which would place thousands of Federal deputy marshals at our polls and practically take away from the State the power to control her own elections. Partisanship which justifies such partisan methods and measures must be expected to resist a bill which reduces the political power and patronage of the minority party in the largest Democratic city of our country.

The reform electoral legislation in 1872, which this bill modifies, did not consist in establishing a board of election inspectors of whom two were of one party and two of another, but in its registration and other features. These provisions were the important safeguards of our elections and have remained so—strengthened from time to time as they have been by judicious amendments such as experience has found to be desirable. The system of registration in New York, whereby every voter must have his name on the books ten days before election and any citizen can ascertain the names and residences of all voters previous to the election, has been the most potent means of securing honest elections there during the last twenty years. It gives to each political committee sufficient opportunity for ascertaining the right of every man on the registry lists to cast his ballot. The mail carrier and the post-office, moreover, supplement the work of the political committee, for every letter or political circular which is mailed to persons on the registry lists and is returned because the person is not found at the residence given, suggests a fraudulent voter. In a city like New York, where the election districts are small and the population compact, it is an easy matter to verify the registry lists. But in addition to the safeguard afforded by the

system of personal registration, there are ample provisions for securing an accurate count. The law prescribes the form of the ballot and the manner of counting, provides for watchers and imposes other requirements which make corruption by election officers well-nigh impossible. The mere fact that election inspectors are divided equally among the two great parties adds not an iota to the honesty of the elections. It was in a so-called non-partisan board of supervisors that the Tweed ring had its origin and began its plunder.

ROSWELL P. FLOWER.

MEMORANDUM FILED WITH ASSEMBLY BILL
No. 1521, CODIFYING THE EXCISE LAWS.—
APPROVED.

STATE OF NEW YORK.

Executive Chamber,

Albany, April 30, 1892.

Memorandum filed with Assembly bill No. 1521, entitled "An act to revise and consolidate the laws regulating the sale of intoxicating liquors."—Approved.

This bill codifies the existing excise laws and puts them in comprehensible and better shape. While there may be defects in the bill, which will probably be developed after it goes into operation, the measure, upon the whole, is an improvement on the present law, and with that conviction I have given it my approval.

ROSWELL P. FLOWER.

DESIGNATION OF JUSTICE CHILDS FOR THE
RENSSELAER SPECIAL TERM.

STATE OF NEW YORK.

Executive Chamber.

IT APPEARING to my satisfaction that the Special Term of the Supreme Court, the Circuit Court and the Court of Oyer and Terminer for the Third Judicial District appointed to be held in and for the county of Rensselaer at the court-house in the city of Troy on Monday the 16th day of May, 1892, is in danger of failing;

Now, therefore, by virtue of the power in me vested and in accordance with the provisions of section two hundred and thirty-seven of the Code of Civil Procedure, I do hereby designate and appoint the Honorable HENRY A. CHILDS, a Justice of the Supreme Court, to hold such Special Term, Circuit Court and Court of Oyer and Terminer as hereinbefore described.

Given under my hand and the privy seal of the State,
at the Capitol in the city of Albany, this second
[L. S.] day of May in the year of our Lord one thousand
eight hundred and ninety-two.

ROSWELL P. FLOWER.

By the Governor:

T. S. WILLIAMS,

Private Secretary.

VETO, ITEM IN SENATE BILL NO. 341, MAKING
AN APPROPRIATION FOR THE NORMAL
SCHOOL AT CORTLAND.

STATE OF NEW YORK.

Executive Chamber,

Albany, May 3, 1892.

Memorandum filed with item contained in Senate bill No. 341, entitled "An act making appropriations for heating, ventilating and furnishing the buildings of the State Normal and Training School at Cortland, and for making changes in and repairs upon the same."—Not approved.

"§ 3. In addition to the sum of sixteen thousand dollars appropriated by section two of chapter three hundred and one of the laws of eighteen hundred and ninety-one, for the purpose of making repairs upon and changes in the present buildings of the State Normal School at Cortland, the sum of nine thousand dollars is hereby appropriated out of any moneys in the treasury not otherwise appropriated, to be expended by the local board of managers of the State Normal and Training School at Cortland with said appropriation of sixteen thousand dollars in making changes in and repairs upon the present buildings and additions thereto.

This item is objected to and not approved for the reason that it is not deemed necessary to make the proposed expenditure at the present time.

ROSWELL P. FLOWER.

VETO, SENATE BILL NO. 784 FOR THE IMPROVE-
MENT OF CONEWANGO CREEK.

STATE OF NEW YORK.

Executive Chamber,

Albany, May 4, 1892.

Memorandum filed with Senate bill No. 784, entitled "An act to promote public health by deepening, changing the course of, and enlarging the channel of the Conewango creek, in the coun-

ties of Cattaraugus and Chautauqua, and changing the course of Davis brook, and making an appropriation therefor."—Not approved.

It is not clear that the work provided for by this bill is necessary for the protection of the public health as is implied by the title. On the contrary it is alleged that it is demanded by private interests only to the injury of others in the same locality.

If the claims made by the opponents of the bill are true, the bill is unconstitutional and the work can be done under the general act of 1869.

If the people of the locality interested desire this improvement, no good reason appears why they should not pay for it themselves. Under all the circumstances it seems inadvisable to appropriate the public moneys for the purpose set forth in this bill.

ROSSELL P. FLOWER.

VETO, ASSEMBLY BILL No. 439, TO REGULATE SALARIES OF THE FLATBUSH POLICE.

STATE OF NEW YORK.

Executive Chamber,

Albany, May 4, 1892.

Memorandum filed with Assembly bill No. 439, entitled "An act to amend chapter five hundred and fifty-six of the laws of eighteen hundred and eighty-eight, entitled 'An act to provide for a police commission in the town of Flatbush, Kings county, and to establish a police force therein.'"—Not approved.

It does not seem to occur to public officers asking for an increase in compensation, that they could by resignation allow

their places to be filled by persons wholly competent and willing to serve the community at the rates fixed by law. There is seldom any difficulty in securing proper persons to fill all the offices in this State at the present salaries.

ROSWELL P. FLOWER.

VETO, SENATE BILL No. 108, TO INCREASE SALARIES OF RENSSELAER COUNTY JUDGE AND SURROGATE.

STATE OF NEW YORK.

Executive Chamber,

Albany, May 4, 1892.

Memorandum filed with Senate bill No. 108, entitled "An act to establish the compensation of the Surrogate and County Judge of Rensselaer county, pursuant to the fifteenth section of the amended sixth article of the Constitution."—Not approved.

In a memorandum filed with Assembly bill No. 94, approved March 1st, 1892, after it had been amended in accordance with my suggestions, I said :

"In my opinion the Legislature and the Executive should subject to particular scrutiny all bills to increase the salaries of public officers. These measures are seldom sustained by public sentiment, and their chief advocacy too often comes from the individuals in whose interest they are urged. Particularly is this true when the salaries to be raised are those of local officers. Out of one hundred and sixty members of the Legislature, only one is often familiar with the facts upon which the Legislature is asked to increase the salary of a local officer, and legislative courtesy permits that one member to be the arbiter of this legislation. Often the proposed measure is enacted before the taxpayers of the locality have either information or

opportunity for a protest. Thus legislation becomes a farce, and local self-government is denied. * * *

"I believe that as a rule all salaries and compensation of local officers should be regulated by the localities themselves. The people who pay the taxes are the best judges of what that compensation should be. So far as is possible general laws should be passed relegating this jurisdiction to the proper local authorities. I am aware that in the case of county judges and surrogates this reform must be accomplished by constitutional amendment, but in most other cases it is believed that immediate relief to the Legislature and a greater measure of self-government to localities can be afforded by a wisely framed general statute having this relegation of authority as its object."

For these reasons I am unable to give my approval to this measure.

ROSWELL P. FLOWER.

VETO, ASSEMBLY BILL No. 137 TO INCREASE
THE SALARY OF THE RENSSELAER COUNTY
SURROGATE.

STATE OF NEW YORK.

Executive Chamber,

Albany, May 4, 1892.

Memorandum filed with Assembly bill No. 137, entitled "An act to establish the compensation of Surrogate of Rensselaer county."—Not approved.

For the reasons given in a memorandum filed this day with Senate bill No. 108 — not approved,— I am unable to approve this bill.

ROSWELL P. FLOWER.

VETO, ASSEMBLY BILL No. 1337 MAKING AN ADDITIONAL APPROPRIATION FOR AGRICULTURAL SOCIETIES.

STATE OF NEW YORK.

Executive Chamber,

Albany, May 13, 1892.

Memorandum filed with Assembly bill No. 1337, entitled "An act to promote agriculture, household manufactures, encourage the raising of poultry, and to improve the breed of stock in this State, and making an appropriation therefor."—Not approved.

This bill is disapproved for the reason that its provisions, in my judgment, fail to supply that kind of encouragement which the agricultural interests of the State are most in need of. The hundred thousand dollars appropriated is designed to be distributed among agricultural societies in premiums on farm products, agricultural machinery and implements and household manufactures. Already during the present year the Legislature has appropriated over \$96,000 for a similar purpose in three separate bills, besides appropriating nearly \$175,000 additional for dairy interests, farmers' institutes, experimental work in agriculture, etc. The total appropriation of public money for the promotion of agricultural interests will be large this year, without the expenditure proposed by this bill, and inasmuch as State taxation falls most heavily upon the farmers they particularly are interested in demanding that every dollar of appropriation shall be placed where it will be certain to do the most good.

My own observation and experience have convinced me that the most practicable kind of relief which can be offered to the agricultural communities of the State is that which, recogniz-

ing the changed conditions prevailing now and created by the opening up of an immense farming territory in the West, endeavors to discourage our farmers from the vain attempt to compete with their western rivals in the production of wheat and corn and other cereals, and stimulates them to new lines of agricultural effort more suited to existing conditions and to present demands. The rapid increase of population in the towns and cities of the State is of direct benefit to our farmers, if they would take advantage of it, by offering a greater market than that possessed by the farmers of any other State for the sale of the so-called "small" crops — vegetables, fruits, etc. — of dairy products, fine butters and cheeses, of poultry and eggs, and other produce, the demand for which is constantly increasing and in the sale of which there cannot be dangerous competition from the farmers of neighboring States. Why should our farmers cater to English taste by exporting cheese at eight cents a pound, when there is an abundant home market for fancy cheeses bringing many times that price? Legislative measures carefully drafted, and having in view this practical end of readjusting agricultural methods and aims to meet present conditions will receive my hearty support and approval, and I am confident they would give greater satisfaction to the people of the State than such a measure as this whose purpose is already generously provided for by other legislation, and whose provisions are not sufficiently explicit to guarantee desirable results from so great an expenditure. Indiscreet or careless appropriations of money for the promotion of agriculture or for any other public purpose do more injury in the long run than good, and the fact that in four separate measures during the recent legislative session, three of which have become laws, appropriations have been made for the distribution of premiums at agricultural and industrial fairs, indicates quite clearly that the legislation was somewhat spasmodic and

not well-considered. I hope that at the next legislative session such measures may be grouped together into one careful, intelligent and comprehensive bill whose provisions will be of genuine benefit to agricultural interests and therefore to the State at large.

ROSWELL P. FLOWER.

VETO, ASSEMBLY BILL No. 1145, MAKING AN APPROPRIATION FOR SUNDRY CANAL IMPROVEMENTS.

STATE OF NEW YORK.

Executive Chamber,

Albany, May 13, 1892.

Memorandum filed with Assembly bill No. 1145, entitled "An act to facilitate State commerce by increasing and improving the lockage capacity of the Erie canal, and to improve the Erie, Oswego, Black River, Cayuga and Seneca and Champlain canals."—Not approved.

This bill is so constructed that the Executive cannot approve some of the items of appropriation and disapprove others, but must sign or veto as a whole the total amount of the appropriation, namely, \$540,000. I regret this circumstance for I am informed that certain canal improvements authorized by the bill are quite necessary and should not be delayed. This is said to be true, especially in the case of the proposed repairs upon the upper and lower Mohawk aqueducts, the Schoharie creek aqueduct, and upon the dam at Cohoes. I am informed, however, that as to the first three there are available funds which can be used for the purpose if necessary during the current year, while the urgency of the repairs upon the dam at

Cohoes is not apparent, since the Legislature, by chapter 155 of the Laws of the present year, has appropriated \$2,000 for the purpose of ascertaining before the next legislative session whether it is advisable to build a new dam at this point to replace the one upon which it is now proposed to expend considerable money in repairs.

The expenditure directed for the other objects of the bill, while doubtless in the interest of canal improvement, is by no means essential to the immediate good service of the State's water-ways. To preserve those water-ways, so that they may continue to be the great regulator of freight rates, helping all sections of the State by the commercial importance which they give to our great cities, and benefiting all classes of citizens by diminishing the cost of food supplies, is a constitutional obligation which it is the duty of the law-making power conscientiously to observe. If the canal system was a benefit to the people years ago when the State produced nearly all of the food products which its people consumed, it must certainly be a benefit now when our people produce only a small proportion of what we consume, for it indisputably cheapens the cost of transportation. Yet the very maintenance of the public water-ways is likely to be threatened by excessive appropriations, for the indirect benefit of the outlay is sometimes difficult to explain satisfactorily to the average taxpayer, while the increase in his annual tax rate is a very convincing means of demonstration. That these appropriations have been large of recent years, and that their tendency is to increase, has been only too evident, and has provoked no little criticism and opposition in various parts of the State. It must not be ignored in this connection, too, that the producers of the State, who number a large part of its population, while benefited by cheap freight rates, have been injuriously affected by improved means of communication with the greater producing areas of

the West, and are ruefully watching the decrease of wealth and population in the agricultural communities where taxes are harder to pay than in commercial and industrial localities. The danger is, at this time particularly, that too great liberality in canal appropriations will, by provoking opposition from unfriendly sources, react against the very cause they are designed to promote.

For maintenance and improvements to the canals there has already been appropriated this year about a million dollars — quite sufficient for all ordinary purposes and enough to maintain the canal system during the present season of navigation without any impairment of its efficiency. The increase of lockage capacity intended to be secured by this bill can be postponed without injury to public interests. During the five years ending with 1890 there had been appropriated for this purpose alone upwards of \$2,500,000, and it must be confessed the results were not very satisfactory, for the tonnage of the canals was actually less in 1890 than in 1886. Indeed the large amounts of money which have been expended on canal improvements during many years past have not yielded corresponding results and the canals now do not carry one-half of their capacity. Their tonnage for the decade ending with 1890 averaged only 5,245,000 tons per year, in spite of the fact that the canals had been made free, which was but a very slight increase over the record for the previous decade, when tolls were required, and actually less than the tonnage for the decade ending with the year 1870. These figures suggest at least the necessity for proceeding cautiously in the appropriation of public money for desired improvements and demand that reasonable assurance of advantage should precede the imposition of every new burden upon the people.

I would respectfully suggest also that in the future the various appropriations for the canals be placed in one bill so far

as possible, so that the people may know more precisely the total amount expended for this purpose, and that the items be so arranged that each one may be judged separately upon its merits, so that a desirable appropriation may not fail because merged with undesirable appropriations.

ROSWELL P. FLOWER.

REVOCATION OF DESIGNATION OF JUSTICE
CHILDS TO THE RENSSELAER SPECIAL
TERM.

STATE OF NEW YORK.

Executive Chamber.

In accordance with the statute in such case made and provided, the designation heretofore made of the Honorable Henry A. Childs, a Justice of the Supreme Court, to hold the Special Term of the Supreme Court, the Circuit Court and the Court of Oyer and Terminer for the Third Judicial District appointed to be held in and for the county of Rensselaer on Monday the 16th day of May, 1892, is hereby and at his own request revoked.

Given under my hand and the privy seal of the State,
at the Capitol in the city of Albany, this fourteenth
[L. S.] day of May in the year of our Lord one thousand
eight hundred and ninety-two.

ROSWELL P. FLOWER.

By the Governor:

T. S. WILLIAMS,

Private Secretary.

VETO, ASSEMBLY BILL No. 1179, TO REPEAL
THE EXEMPTION OF VETERANS' HOME-
STEADS FROM TAXATION.

STATE OF NEW YORK.

Executive Chamber,

Albany, May 17, 1892.

Memorandum filed with Assembly bill No. 1179, entitled "An act to amend section thirteen hundred and ninety-three of the Code of Civil Procedure, relating to exemptions."—Not approved.

I am not in sympathy with the purpose of this bill. Its object is practically to repeal the statute which, as construed by a decision of the Court of Appeals, exempts from taxation soldiers' homes bought with pension money. The intention of the law has undoubtedly been to give to our crippled veterans the full benefit of their pensions, and to encourage them to invest their well-deserved money in little homesteads, where they could pass the remainder of their days secure against the danger of being ousted for non-payment of taxes. This privilege is one which the State can well afford to grant to the broken-down defenders of our country, and one to whose revocation, I am confident, the Legislature would not have assented had it understood the full purport of the measure now before me.

The attitude of the soldiers of the State toward the measure is well reflected in the letters which I have received urging me to withhold my approval from it. One of these is from the Commander of the Grand Army of the Republic, Department of New York, who states the sentiment of opposition so well that I give his communication herewith in full:

“OFFICE OF COMMANDER,
 “DEPARTMENT OF NEW YORK,
 “GRAND ARMY OF THE REPUBLIC,
 “SYRACUSE, N. Y., *April 30, 1892.* }

“Hon. R. P. FLOWER, *Governor, Albany, N. Y.:*

“DEAR SIR.—Owing to my absence from the State by order of my physician, I was unaware until my arrival here yesterday, of the passage by the late Legislature of what is known as the Deyo bill, which provides that soldiers' homes that have been purchased with moneys received as pensions for services rendered the United States, should be subject to the tax laws of our State. The Court of Appeals has decided that homes so purchased shall be exempt from execution for debts, as the intention of the government and the people was and is now that these broken-down veteran soldiers should possess and enjoy their little homes for the balance of their days, without molestation. Now is it possible that the great State of New York will at this late day take a backward step, and allow the homes of these veterans to be taken away from them for *non-payment of taxes?* Our State and country have been made rich and prosperous as the result of the heroic services of these veterans, and we cannot believe that the people of the State desire now to do anything that will seem to them unjust.

“As the Commander of the Department of New York Grand Army of the Republic, representing over 42,000 members, and in their name, I urge and beseech you not to allow this bill to become a law. We look to you for assistance, and feel confident that our appeal will be heard.

“Respectfully,

“T. L. POOLE,

“Commander Dept.”

These views accord so entirely with my own that I have no hesitation in refusing my signature to the bill.

ROSWELL P. FLOWER.

VETO, ASSEMBLY BILL No. 1189, RELATING TO
STENOGRAPHERS IN SURROGATES' COURTS.

STATE OF NEW YORK.

Executive Chamber,

Albany, May 17, 1892.

Memorandum filed with Assembly bill No. 1189, entitled "An act to amend section twenty-five hundred and thirteen of the Code of Civil Procedure, relating to the employment of stenographers in Surrogates' Courts."—Not approved.

The last sentence of section 2513 of the Code of Civil Procedure as proposed to be amended by this bill provides that "a transcript of such notes in longhand shall in every case be made and filed forthwith in the office of the surrogate."

In many cases this would be wholly unnecessary and useless and would add a burdensome expense to proceedings in Surrogates' Courts.

ROSWELL P. FLOWER.

VETO, SENATE BILL No. 763, TO INCREASE THE
FEES OF U. S. DEPOSIT FUND COMMISSIONERS.

STATE OF NEW YORK.

Executive Chamber,

Albany, May 17, 1892.

Memorandum filed with Senate bill No. 763, entitled "An act to amend an act entitled 'An act authorizing a loan of certain moneys belonging to the United States deposited with the State of New York for safe-keeping,' passed April fourth, eighteen hundred and thirty-seven."—Not approved.

The bill increases the fees of loan commissioners from 12½ cents to 50 cents for each book of mortgages searched. I am

not convinced from the information before me that the measure is in the public interest, and I am unable therefore to give it my approval.

ROSWELL P. FLOWER.

VETO, ASSEMBLY BILL No. 602, TO COMPEL
INSTRUCTION IN VOCAL MUSIC IN THE
PUBLIC SCHOOLS.

STATE OF NEW YORK.

Executive Chamber,

Albany, May 17, 1892.

Memorandum filed with Assembly bill No. 602, entitled "An act in relation to the study of vocal music in the public schools of the State of New York."—Not approved.

This bill is full of mandatory provisions.

It compels instruction in vocal music in the State Normal schools.

It compels the board of education in every city of the State (New York and Brooklyn excepted) to provide free instruction in vocal music in the public schools.

It imposes the same obligation on the board of education in every village with a population of more than 5,000, where a superintendent is employed, and in every union free school district—unless excused by the State Superintendent of Public Instruction.

It directs the Superintendent of Public Instruction to provide instruction in vocal music in all the teachers' institutes throughout the State.

Desirable as it may be to encourage vocal music I do not believe it is the function or should be the policy of the State

to arbitrarily direct the establishment of any such wholesale innovation into our common school curriculum.

It is wrong in principle for the Legislature to compel the city of Buffalo or any other municipality to provide instruction in vocal music in its free schools if that city does not desire of its own volition to supply such instruction.

With its mandatory provisions made permissive I would willingly approve the measure, but in its present shape it is, in my judgment, opposed to sound principles of legislation.

ROSWELL P. FLOWER.

VETO, SENATE BILL No. 273, TO AMEND THE
MEDICAL SCIENCE LAW.

STATE OF NEW YORK.

Executive Chamber,

Albany, May 17, 1892.

Memorandum filed with Senate bill No. 273, entitled "An act to amend chapter four hundred and forty-three of the Laws of eighteen hundred and eighty-three, entitled 'An act to amend chapter five hundred and fifty of the laws of eighteen hundred and eighty-one, entitled "An act to amend chapter one hundred and twenty-three of the laws of eighteen hundred and fifty-four, entitled An act to promote medical science.'"—Not approved.

This bill is defective in construction. It is drafted in apparent ignorance of chapter 280 of the Laws of 1887, and therefore omits the important amendments contained in that chapter.

ROSWELL P. FLOWER.

VETO, ASSEMBLY BILL No. 1356, RELATING TO
TOWN MEETINGS IN BATH, STEUBEN COUNTY.

STATE OF NEW YORK.

Executive Chamber,

Albany, May 17, 1892.

Memorandum filed with Assembly bill No. 1356, entitled "An act to confer upon the town board of Bath, county of Steuben, the power to call and hold a special town meeting to determine in what places in said town annual or special town meetings shall be hereafter held, and to vote upon an application to the board of supervisors of said county to authorize the annual and special town meetings in such town to be held by the election districts."—Not approved.

The object sought to be accomplished by this bill can already be attained under the general town law. The measure is therefore unnecessary.

ROSWELL P. FLOWER.

VETO, SENATE BILL No. 219, TO RAISE THE
SALARY OF THE FLATBUSH CAPTAIN OF
POLICE.

STATE OF NEW YORK.

Executive Chamber,

Albany, May 17, 1892.

Memorandum filed with Senate bill No. 219, entitled "An act to amend chapter five hundred and fifty-six of the laws of eighteen hundred and eighty-eight, entitled 'An act to provide for a police commission in the town of Flatbush, Kings county, and to establish a police force therein.'"—Not approved.

This bill is proper in form except in one respect, namely: it absolutely raises and fixes the salary of captain of police. In

disapproving similar bills I have repeatedly stated my opposition to mandatory legislation compelling an increase of salary to local officers irrespective of the desires of the people of the locality or of their official authorities, and I cannot consistently depart from that policy in this case.

ROSWELL P. FLOWER.

VETO, SENATE BILL No. 561, AMENDING THE COLLATERAL INHERITANCE LAW.

STATE OF NEW YORK.

Executive Chamber,

Albany, May 17, 1892.

Memorandum filed with Senate bill No. 561, entitled "An act to amend chapter three hundred and seven of the laws of eighteen hundred and eighty-nine, entitled 'An act to amend section thirteen of chapter seven hundred and thirteen of the laws of eighteen hundred and eighty-seven, entitled "An act to amend chapter four hundred and eighty-three of the laws of eighteen hundred and eighty-five, entitled 'An act to tax gifts, legacies and collateral inheritances in certain cases.'" — Not approved.

All the additional provisions contained in this bill are contained in section 14 of chapter 399 of the Laws of 1892, and the measure is therefore unnecessary.

ROSWELL P. FLOWER.

VETO, ASSEMBLY BILL NO. 1419, RELATING TO LETTERS TO INMATES OF ASYLUMS.

STATE OF NEW YORK.

Executive Chamber,

Albany, May 17, 1892.

Memorandum filed with Assembly bill No. 1419, entitled "An act to prohibit the opening or reading of certain letters written or received by the inmates of insane hospitals and asylums by those in charge thereof, and providing for the delivery of the same." — Not approved.

I am of the opinion that this legislation would interfere with the proper conduct of institutions for the insane, subject many persons to unnecessary annoyance and embarrassment, and accomplish no good purpose which is not already provided for by existing law. Letters of insane patients addressed to public officers must now be forwarded unopened by asylum officers, thus securing official attention to any complaints of abuse by hospital keepers, attendants, physicians or other employees, and all letters detained for any case must be forwarded to the Commission in Lunacy, by whom they may be sent to their destination should it appear that they were improperly detained. These safeguards would seem to offer sufficient protection to inmates of asylums against unjust incarceration or confinement.

To permit insane patients to receive letters unopened would encourage the secret transmission of poisonous drugs, matches, knife-blades, etc., which are dangerous articles in the hands of the insane.

Present regulations seem to me to be well devised for the prevention of any possible wrongs, and such an innovation as is proposed would, I fear, result in mischief and harm.

ROSWELL P. FLOWER.

VETO, SENATE BILL No. 447, GIVING THE BOARD OF CLAIMS JURISDICTION IN THE ABNER POWELL CASE.

STATE OF NEW YORK.

Executive Chamber,

Albany, May 17, 1892.

Memorandum filed with Senate bill No. 447, entitled "An act to authorize the Board of Claims to hear, audit and determine the claims of Orville Powell, Jeanette McAllister, Kate P. Hough, Mary Kneaskern, Frank Powell, Lena Powell, Maria Powell, and the claims of Gordon Hough and Jeanette McAllister, as administratrix and administrator of the goods, chattels and credits of the late Abner Powell, deceased, against the State of New York for damages to the property of the late Abner Powell, deceased, caused by the State, by and for the permanent appropriations of the lands of the said Abner Powell for the canals of the State, and to make an award therefor." — Not approved.

Part of the claim would have been outlawed as between individuals and is therefore unconstitutional. As to the remainder, special legislation is not required to allow its presentation before the Board of Claims.

ROSWELL P. FLOWER.

VETO, ASSEMBLY BILL No. 1146, REQUIRING STEAM ENGINEERS IN BROOKLYN TO BE CITIZENS.

STATE OF NEW YORK.

Executive Chamber,

Albany, May 17, 1892.

Memorandum filed with Assembly bill No. 1146, entitled "An act to amend section fifty-three of title eleven of chapter five

hundred and eighty-three of the laws of eighteen hundred and eighty-eight, entitled 'An act to revise and combine in a single act all existing special and local laws affecting public interests in the city of Brooklyn,' relating to the department of police and excise." — Not approved.

The bill requires every engineer in charge of a steam engine or boiler to be a citizen of the United States. While citizenship is desirable for all worthy persons making their home in this country it is not an essential requisite to being a competent engineer.

ROSWELL P. FLOWER.

VETO, SENATE BILL NO. 259, RELATING TO
POLICE VACATIONS IN ROCHESTER.

STATE OF NEW YORK.

Executive Chamber,

Albany, May 17, 1892.

Memorandum filed with Senate bill No. 259, entitled "An act to amend chapter one hundred and forty-three of the laws of eighteen hundred and sixty-one, entitled 'An act to amend and consolidate the several acts in relation to the charter of the city of Rochester,' as amended by chapter fourteen of the laws of eighteen hundred and eighty, entitled 'An act to further amend chapter one hundred and forty-three of the laws of eighteen hundred and sixty-one, entitled "An act to amend and consolidate the several acts in relation to the charter of the city of Rochester," and to consolidate therewith the several acts in relation to the charter of said city.' "—Not approved.

The bill makes it mandatory upon the board of police to grant vacations and leaves of absence to members of the police

department. Such legislation ought to be permissive in form. The police authorities ought to have full power to regulate the matter of vacations according to their own discretion and without direction from the Legislature.

ROSWELL P. FLOWER.

VETO, ASSEMBLY BILL No. 574, AUTHORIZING
COHOES TO ISSUE BONDS.

STATE OF NEW YORK.

Executive Chamber,

Albany, May 17, 1892.

Memorandum filed with Assembly bill No. 574, entitled "An act to authorize the city of Cohoes to borrow money by the issue of bonds for the purpose of carrying on the government of the city in anticipation of the collection of general taxes now due."—Not approved.

The principle of this bill is bad. It would permit the issue of bonds to an amount of not exceeding \$40,000, the proceeds of which are to be applied solely to the payment of taxes now due. If taxes are now due the diligence of city officers should be exercised to secure their collection. New burdens for such a purpose should not be imposed upon the citizens until all legal remedies for the collection of taxes have been exhausted. The measure is opposed by many reputable citizens of Cohoes and I am unwilling to give it my approval.

ROSWELL P. FLOWER.

VETO, SENATE BILL No. 677, TO REGULATE THE
WARD BOUNDARIES OF BROOKLYN.

STATE OF NEW YORK.

Executive Chamber,

Albany, May 17, 1892.

Memorandum filed with Senate bill No. 677, entitled "An act to amend chapter fifty-seven of the laws of eighteen hundred and ninety-two, entitled 'An act to amend sections nineteen and twenty-eight and make two additional sections to title one of chapter five hundred and eighty-three of the laws of eighteen hundred and eighty-eight, entitled "An act to revise and combine in a single act all existing special and local laws affecting public interests in the city of Brooklyn," and also to amend section two of title two and section sixteen of title three of same chapter, so as to divide the eighteenth ward and to provide for two additional wards.'"—Not approved.

The bill is unnecessary. Chapter 455 of the Laws of 1892 gives to the common council power to change ward boundaries in the city of Brooklyn.

ROSWELL P. FLOWER.

VETO, ASSEMBLY BILL No. 1503, RELATING TO
SALMON AND MAD RIVERS.

STATE OF NEW YORK.

Executive Chamber,

Albany, May 17, 1892.

Memorandum filed with Assembly bill No. 1503, entitled "An act to repeal chapter five hundred and forty-two of the laws of eighteen hundred and eighty-four, entitled 'An act to provide

for the improvement of the Salmon river and a branch of the same known as the Mad river, in the counties of Oswego, Lewis and Jefferson, and to make an appropriation therefor.' "—Not approved.

The apparent object of this bill is to repeal an act making these streams public highways. If that is the object the enactment of the bill will not accomplish it, since chapter 619 of the Laws of 1881, which declares them public highways, will remain unrepealed.

ROSWELL P. FLOWER.

MEMORANDUM FILED WITH SENATE BILL No. 806,
PROVIDING AN ADDITIONAL SURROGATE FOR
NEW YORK. — APPROVED.

STATE OF NEW YORK

Executive Chamber,

Albany, May 17, 1892.

Memorandum filed with Senate bill No. 806, entitled "An act increasing the number of surrogates in the Surrogate's Court for the city and county of New York, and prescribing their powers and duties." — Approved.

Relief is undoubtedly desirable for the Surrogate's Court in the county of New York. The business of the court has so increased in late years that one surrogate unassisted is hardly able to attend to it all. Practically the only question, therefore, which the Executive has considered in connection with the bill is that of constitutionality. The affirmative arguments seem to me to establish the bill's constitutionality, and if there is any disposition in any quarter to question it there will be

ample opportunity for the courts to determine the matter before the additional surrogate, whose election is provided for in the bill, enters upon the duties of his office.

ROSWELL P. FLOWER.

MEMORANDUM FILED WITH ASSEMBLY BILL INTRODUCTORY NUMBER 1325, FIXING THE TAX LEVY. — APPROVED.

STATE OF NEW YORK.

Executive Chamber,

Albany, May 17, 1892.

Memorandum filed with Assembly bill Introductory No. 1325, entitled "An act to provide ways and means for the support of the government." — Approved.

The bill supplements chapter 84 of the Laws of 1892, both of which make the total tax rate for State purposes for the next fiscal year one and ninety-eight hundredths mills on each dollar of assessed valuation. With the exception of last year this rate is the lowest since 1855, and has been accomplished by gratifying economy on the part of the Legislature. Considering the necessity for large appropriations this year for the State's representation at the World's Fair and for the enumeration of the inhabitants, the appropriations have been comparatively small and none has been granted unless it was absolutely necessary. In my annual message transmitted to the Legislature at the beginning of the session I said :

"In these times when federal and local taxation bears heavily upon the people, the Legislature should avoid unnecessary or excessive appropriations of public money and de-

mand the strictest economy consistent with good administration in the various departments and bureaus of the public service. * * * Lavish use of public money is a dangerous foe to public morals and to official administration. The affairs of the government should be managed with the same honesty, economy and zeal as characterize the management of private business."

It is gratifying to observe that this suggestion has received such cordial support by the Legislature and that the record of the session is so conspicuous for economy and retrenchment. The taxpayers are to be congratulated on this satisfactory result.

The tax rate of 1.98 mills is distributed as follows: for schools, one mill — the same as last year; for canals, 26 hundredths of a mill — less by $11\frac{1}{2}$ hundredths of a mill than that of last year; and for general purposes of government, 72 hundredths of a mill. This last item is an increase over last year, when, by reason of the presence of considerable surplus in the treasury, no tax was required to be levied for general purposes, but it is less than has been levied for general purposes in any year for a generation back. The canal tax rate does not, as is evidently supposed in some parts of the State, include provision for raising the \$540,000 for canal improvements which was recently vetoed by the Executive, that measure having provided in itself for an additional tax levy of 14 hundredths of a mill on each dollar of valuation.

The low tax rate will, I am sure, give general satisfaction, and although some interests may have suffered by reason of the vigilant economy practiced, the result, on the whole, will be approved by the taxpayers.

ROSWELL P. FLOWER.

VETO, ASSEMBLY BILL No. 805 AND SENATE BILL No. 731, TO REGULATE COMPENSATION OF OFFICIALS IN ONEIDA AND CAYUGA COUNTIES, RESPECTIVELY.

STATE OF NEW YORK.

Executive Chamber,

Albany, May 17, 1892.

Memorandum filed with Assembly bill No. 805, entitled "An act to authorize the board of supervisors of Oneida county to fix and regulate the fees and salaries of the officers of said county."—Not approved. And Senate bill No. 731, entitled "An act to make the office of county clerk of Cayuga county a salaried office and regulating the management of said office."—Not approved.

There seems to be a growing conviction that the fee system of compensating county clerks and sheriffs for their services should be abolished and the salary system substituted. In 1887 the county clerk of St. Lawrence county, in 1890 the county clerks of Steuben, Ontario, and Chautauqua counties, in 1891 the county clerks of Herkimer and Madison counties, and in 1892 the county clerks of Schuyler and Wayne counties have been made salaried officers by chapter 392 of the Laws of 1887, chapters 323, 327 and 547 of the Laws of 1890, chapters 47 and 64 of the Laws of 1891, and chapters 590 and 663 of the Laws of 1892 respectively. The sheriffs of New York, Madison and Wayne counties have been made salaried officers by chapter 523 of the Laws of 1890, and chapters 29 and 30 of the Laws of 1891.

The bill first above mentioned proposes to give the board of supervisors power to abolish the fee system for all county officers of Oneida county and to fix the salaries of all the

county officers of that county except the county judge. Upon the face of the bill, it would authorize the supervisors to fix the salary of the surrogate of that county, and to that extent the bill is upon its face unconstitutional.

But apart from that the bill is too radical and sweeping, at least while the movement for the change from the fee to the salary system is yet in its experimental stage. Certain charges for services of sheriffs and county clerks, whether paid to them as fees for their services, or for the benefit of the county treasuries, should be uniform throughout the State, which would not long be the case, if the charges in each county are left wholly to local regulation.

The fact that the movement is still in its experimental stage, is the only reason and a sufficient reason for allowing the movement still to proceed by special legislation for one county at a time. After the experiment has been sufficiently tried in these few scattered counties, the movement should be abandoned if found undesirable, or by general law made applicable to all counties, if proved beneficial to the public. For this reason, I have approved the special legislation of the present year, making the clerks of Schuyler and Wayne counties salaried officers.

But the bill now before me to make the county clerk of Cayuga county a salaried officer, differs in several important particulars from similar laws for the county clerks of other counties.

First. It requires the board of supervisors to fix the annual salary of the county clerk of that county at \$2,500 instead of allowing the amount to be fixed by the board of supervisors as provided by the Herkimer and Madison county acts of 1891, and by the Schuyler and Wayne county acts of the present year.

Second. While appearing to allow the board of supervisors to regulate certain charges, as for searches, etc., in fact the bill

requires the clerk to collect for the benefit of the county the full fees now permitted by law, the language of the bill being as follows :

"It shall be his duty to exact, collect and receive all such fees, emoluments and perquisites now permitted by law, and not exceeding the amount fixed by law, as from time to time shall be prescribed by resolution of the board of supervisors," etc.

Nearly all the other acts provide for a possible reduction of certain charges, particularly for searches, for which the county clerks in rural counties seldom charge the full legal fees. To compel the clerk to collect the full fees allowed by law in all cases would be very burdensome to the people desiring such services.

Third. The bill abolishes the office of deputy clerk which is otherwise uniform throughout the State, and substitutes three assistant clerks, whose salaries are to be fixed by the board of supervisors, but for whose official acts the county clerk shall be responsible. As the supervisors may change such salaries at their pleasure, the supervisors are indirectly given power to control the appointment of the assistants for whom the clerk must be responsible.

On account of these objectionable variations from the other bills which I have approved, I must withhold my approval from this bill.

The special legislation making county clerks salaried officers ought to end with the present year. If it is desired to extend the salary system to other counties hereafter, it should be done by a general or substantially general law, consolidating, revising and repealing all the existing special laws, and including under one carefully framed act, all the counties desiring to adopt the change.

ROSWELL P. FLOWER.

VETO, ASSEMBLY BILL No. 1508, AUTHORIZING
VILLAGES TO CONTRACT WITH ELECTRIC
LIGHT COMPANIES.

STATE OF NEW YORK.

Executive Chamber.

Albany, May 17, 1892.

Memorandum filed with Assembly bill No. 1508, entitled "An act to amend chapter four hundred and fifty-two of the laws of eighteen hundred and eighty-eight, entitled 'An act to authorize and empower the board of trustees of incorporated villages in this State to contract with electric light companies organized under the laws of this State, for lighting the streets and public grounds of said villages.'"—Not approved.

The principal change effected by this proposed legislation is that which increases from $1\frac{1}{2}$ mills for every dollar of taxable property to four mills the aggregate sum for which village trustees are authorized to contract with electric light companies for purposes of illumination in villages. This would extend very materially the power of trustees to tax villages without the necessity of submitting proposed expenditures to a vote of the people. It would give undue preference to village expenditures for electric light purposes, and in many cases would confer unwise and unreasonable power upon boards of trustees. Legislation should be well guarded which authorizes local taxation for local purposes without submission to popular vote, and I cannot but regard the change proposed by this bill as too radical and injudicious.

ROSWELL P. FLOWER.

VETO, ASSEMBLY BILL NO. 619, AMENDING THE
MECHANICS' LIEN LAW.

STATE OF NEW YORK.

Executive Chamber,

Albany, May 17, 1892.

Memorandum filed with Assembly bill No. 619, entitled "An act to amend chapter three hundred and forty-two of the laws of eighteen hundred and eighty-five, entitled 'An act for better security of mechanics, laborers and others who perform labor or furnish material for buildings and other improvements in the several cities and counties of this State,' and repeal certain acts and parts of acts amendatory thereof."—Not approved.

The object of this bill is to amend section one of the mechanics' lien law, so as to give a lien for dredging, filling in, grading or otherwise altering or improving meadow, marsh, swamp or other low lands. Such object seems very desirable. In fact I can see no reason why the mechanics' lien law should not be extended so as to authorize a lien by any laborer for his work upon or connected with any real property.

But this bill was drafted in evident forgetfulness of the amendment made to the same section by chapter 316 of the Laws of 1888, authorizing a lien for gas and electric lighting apparatus. The provisions added by the act of 1888 are omitted from this bill, and would therefore be repealed if the bill should be approved. This evidently was not the deliberate intention of the framer of the bill or of the Legislature.

ROSWELL P. FLOWER.

VETO, ASSEMBLY BILL No. 1047, AMENDING THE
MECHANICS' LIEN LAW.

STATE OF NEW YORK.

Executive Chamber,

Albany, May 17, 1892.

Memorandum filed with Assembly bill No. 1047, entitled "An act to amend chapter three hundred and forty-two of the laws of eighteen hundred and eighty-five, entitled 'An act for the better security of mechanics, laborers and others who perform labor or furnish materials for buildings and other improvements in the several cities and counties in this State, and to repeal certain acts and parts of acts.'"—Not approved.

This bill proposes to add two new sections, numbered 27 and 28, to the present mechanics' lien law. In the first draft of the bill these sections seem to have been numbered 28 and 29, and two references in the latter section still remain to section 28 which should also have been correspondingly amended so as to refer to section 27. As the bill now reads, these two references in section 28 to the notice provided for in section 28 should be to the notice provided for in section 27. Such references, as they now read, may seriously affect the substance of the bill.

The general object of the bill is to enable persons furnishing materials or performing work for a contractor, to give a written notice thereof to the owner to retain in his hands sufficient moneys from the amount payable to such contractor, to meet the indebtedness of the contractor to his sub-contractor or employee, and thereby possibly avoid the necessity of filing a lien. This object seems desirable. But the bill further provides that if a lien shall be filed within ninety days after giving such notice, it shall relate back and be a lien

as of the date of giving the notice. Under this provision, secret liens may stand for ninety days without appearing of record, and then take precedence of other liens actually filed in the meantime. This would encourage the manufacture of fictitious ante-dated notices, by collusion with an owner, to secure preferences over *bona fide* liens previously filed.

ROSSELL P. FLOWER.

VETO, SENATE BILL No. 477, RELATING TO JURORS
AT SPECIAL SESSIONS.

STATE OF NEW YORK.

Executive Chamber,

Albany, May 17, 1892.

Memorandum filed with Senate bill No. 477, entitled "An act to amend sections seven hundred and three and seven hundred and four of the Code of Criminal Procedure, relative to trials by jury in Courts of Special Sessions." — Not approved.

The object of this bill is to apply the same general method of selecting jurors in Courts of Special Sessions, which has lately been made applicable to justices' courts. This object is very desirable, and but for one clause in the bill I would be glad to approve it. Section 1 provides among other matters :

"It shall be the duty of every town or city clerk in this state within ten days after the taking effect of this act to make and deliver to every recorder, police justice or other judicial officer having authority to hold courts of special sessions in their respective towns or cities, in accordance with the provisions of this title, a certified copy of the jury list as is now required by section 2990 of the Code of Civil Procedure to be furnished by them to the justices of the peace of their various towns and cities for the drawing of jurors in civil actions, and any such clerk neglecting or refusing so to do shall be deemed guilty of a misdemeanor."

Section 3 of the bill provides :

"This act shall take effect immediately."

If this bill were approved the town and city clerks throughout the State would have but ten days after the date of approval in which to learn of the existence and contents of the law and to comply with its provisions. Under the present system of announcing to the people the fact of the enactment of a law and its contents, it would be practically impossible for a large majority of the town and city clerks in the State to obtain a copy of the law and to comply with its provisions within ten days after its approval, and thus without fault on their part, they would be guilty of crime. The injustice of such a result outweighs the advantages which would accrue from the desirable reform which the bill would probably effect in the jury system of Courts of Special Sessions.

ROSWELL P. FLOWER.

VETO, ASSEMBLY BILL No. 1181, FOR A LAW
LIBRARY AT OSWEGO.

STATE OF NEW YORK.

Executive Chamber,

Albany, May 17, 1892.

Memorandum filed with Assembly bill No. 1181, entitled "An act to establish and maintain a Supreme Court law library in the fifth judicial district at Oswego, New York."—Not approved.

This bill appropriates \$5,000 for the establishment of a law library permanently at Oswego. The following quotation from my message to the present Legislature disapproving Senate bill No. 167 to establish a Supreme Court law library at Elmira is equally applicable to this bill, to-wit:

"It is perhaps doubtful whether the State should assume the policy of supplying every justice of the Supreme Court with a law library. But however that may be, it seems clear that the State should not locate any such library permanently in any city unless it is reasonably certain that there will always be a justice of the Supreme Court resident in that city."

ROSWELL P. FLOWER.

VETO, SENATE BILL No. 326, NAMING A HIGHWAY IN KINGS COUNTY.

STATE OF NEW YORK.

Executive Chamber,

Albany, May 18, 1892.

Memorandum filed with Senate bill No. 326, entitled "An act to provide for naming of the continuous highway in the county of Kings, extending from Ocean Parkway to low-water mark in the town of New Utrecht in the lines of Avenue K as altered and of Twenty-second avenue; and for the maintaining and management of the same by the park commissioners of the city of Brooklyn."—Not approved.

I have approved Senate bill No. 583,—chapter 666 of the Laws of this year,—of which this bill is in most respects a duplicate. At least the former measure seems to contain every important provision of this one with some additional clauses, and the enactment of both is unnecessary.

ROSWELL P. FLOWER.

VETO, SENATE BILL No. 563, AMENDING THE VIL-
LAGES INCORPORATION LAW.

STATE OF NEW YORK.

Executive Chamber,

Albany, May 18, 1892.

Memorandum filed with Senate bill No. 563, entitled "An act to amend chapter two hundred and ninety-one of the laws of eighteen hundred and seventy, entitled 'An act for the incorporation of villages.'"—Not approved.

The section of the general village act which this bill seeks to amend was amended in 1891 by chapter 160 of the Laws of that year by inserting a provision that "taxes raised for any specific item of anticipated expense under section 11 of title 3 of this act shall not be applied to any other than the designated purpose during the current year."

There is no reference to this amendment either in the title or the body of the present bill, and the words quoted are wholly omitted. I can find from these facts no evidence of any intention on the part of the Legislature to repeal such an important provision of law, and I infer that the error is that of the draftsman. The executive approval is therefore withheld.

ROSWELL P. FLOWER.

VETO, ASSEMBLY BILL No. 816, RELATING TO
PROBATE OF WILLS (AMENDING CODE OF
CIVIL PROCEDURE).

STATE OF NEW YORK.

Executive Chamber,

Albany, May 18, 1892.

Memorandum filed with Assembly bill No. 816, entitled "An act to amend sections twenty-six hundred and twenty-four, twenty-six hundred and twenty-six, twenty-six hundred and twenty-nine, twenty-six hundred and forty-seven and twenty-six hundred and fifty-two, and to repeal section twenty-six hundred and twenty-seven of the Code of Civil Procedure, in relation to probate of wills."—Not approved.

This bill and Assembly bill No. 800, which has been approved by me and is now chapter 591 of the Laws of 1892, were both aimed at the same defect theretofore existing in the law governing the effect of a probate of a will of real property. So far as the title to real property devised by will was concerned, the probate of the will by the Surrogate's Court, though affirmed by the General Term of the Supreme Court and again by the Court of Appeals, established only presumptively the fact and validity of the will. In an action subsequently brought involving the title to the real estate under the will the whole matter including the due execution of the will, the mental capacity of the testator, etc., could be litigated anew with the right to jury trial. If the will devised real property to another than heirs, each heir might bring separate action of ejectment, and separately litigate the same questions, with a right to two jury trials of the same issues.

This bill proposes to remedy such inconvenience by giving to the probate of a will the same conclusive effect as to real

property devised thereby as has for a long time been allowed as to personal property bequeathed. Thus the right to jury trial of the issue of title to real property devised would be taken away. This remedy if not unconstitutional is a radical innovation.

The other bill referred to adopted a more conservative and a clearly constitutional remedy, by authorizing an action in the Supreme Court within two years after the probate of the will, in which all parties interested shall be joined, and in such action the issue of whether the instrument is or is not the last will of the testator shall be tried by a jury, and the final judgment in such action shall be conclusive as to title to all property under the will.

This solution of the problem is more conservative and safe, and I have therefore selected that bill for approval.

ROSWELL P. FLOWER.

VETO, ASSEMBLY BILL No. 701, TO AMEND THE
LAW FOR REVIEW OF ASSESSMENTS.

STATE OF NEW YORK.

Executive Chamber,

Albany, May 18, 1892.

Memorandum filed with Assembly bill No. 701, entitled "An act to amend chapter two hundred and sixty-nine of the laws of eighteen hundred and eighty, entitled 'An act to provide for the review and correction of illegal, erroneous or unequal assessments.' " — *Not approved.*

This bill would establish for railroad and telegraph companies a different rule in proceedings to review assessments from that which prevails as to all other persons and corporations.

To entitle one to a remedy by *certiorari* to the assessors under the act of 1880, it has always been held that he must appear on the review day and make application for a reduction of his assessment if he claims it to be unequal or erroneous for over-valuation.

This is but just to the assessors and to all the other taxpayers. The former should have notice of such a claim and be put in possession of the facts on which it is based in order that they may do justice to the latter, without incurring the possibility of an expensive litigation. No good reason exists why railroad and telegraph companies, surely as well able to take care of themselves as anybody else, should be exempted from this salutary rule of law; and I have therefore decided that I cannot approve this bill.

ROSWELL P. FLOWER.

VETO, SENATE BILL No. 475, RELATING TO HIGHWAYS IN NEW UTRECHT.

STATE OF NEW YORK.

Executive Chamber,

Albany, May 18, 1892.

Memorandum filed with Senate bill No. 475, entitled "An act relative to the powers and duties of the board of improvement in the town of New Utrecht, and for the improvement of the public highways in said town."—Not approved.

This bill if it became a law would abolish the office of commissioner of highways in the town of New Utrecht in the county of Kings, and devolve his powers and duties on the board of improvement of said town, who would be authorized

by its terms to construct, re-construct, regulate, grade and improve its highways, "from time to time by macadamizing or otherwise, in such manner and to such extent as in their judgment shall be deemed expedient."

The bill further provides for the issue of bonds in payment for such improvements to an amount not exceeding four hundred thousand dollars in the next five years, and at the rate of fifteen thousand dollars in each year thereafter; and confers on the board of improvement exclusive control over the highways of the town, and full power "to hire and employ such persons as may be required for the performance of the work provided for by this act."

I cannot resist the conviction that this bill is in violation of the provision of section 18 of article III of the Constitution which prohibits the Legislature from passing any local bill, "laying out, opening, altering, *working* or discontinuing roads, highways or alleys."

If the bill merely provided for the transfer of control from one local authority to another it would probably be within the scope of the legislative power; but so much doubt would be thrown about the exercise of any authority under it in its present form, and especially as to the validity of the bonds it provides for, that I feel constrained to withhold my approval.

ROSWELL P. FLOWER.

VETO, ASSEMBLY BILL No. 47, FOR A NORMAL
SCHOOL AT JAMAICA.

STATE OF NEW YORK.

Executive Chamber,

Albany, May 18, 1892.

Memorandum filed with Assembly bill No. 47, entitled "An act to establish a normal and training school at the village of Jamaica, in the county of Queens."—Not approved.

If it were deemed desirable that any more normal schools should be established in the State there would seem to be strong arguments in favor of the location of one at Jamaica. That section of the State has been ignored, perhaps unjustly, in the location of these schools. But I am convinced that there is no present necessity for increasing the number of normal schools, and with this conviction I cannot consistently give my approval to the expenditure of \$100,000 appropriated by this bill. Moreover the tax-rate for the present year having already been fixed, so large an extraordinary expenditure as this is unadvisable.

ROSWELL P. FLOWER.

VETO, ASSEMBLY BILL No. 689, MAKING A FURTHER
APPROPRIATION FOR THE ELMIRA
REFORMATORY.

STATE OF NEW YORK.

Executive Chamber,

Albany, May 18, 1892.

Memorandum filed with Assembly bill No. 689, entitled "An act to provide improved transportation facilities for the New York State Reformatory at Elmira."—Not approved.

This bill is disapproved for the reason that the expenditure of \$35,000 appropriated is not deemed expedient or advisable at the present time.

ROSWELL P. FLOWER.

MEMORANDUM FILED WITH STATUTORY REVISION BILLS:

ASSEMBLY BILL No. 1468, GENERAL CORPORATION LAW.—APPROVED.

ASSEMBLY BILL No. 1473, STOCK INCORPORATION LAW.—APPROVED.

ASSEMBLY BILL No. 1395, BANKING CORPORATIONS LAW.—APPROVED.

ASSEMBLY BILL No. 1341, INSURANCE CORPORATIONS LAW.—APPROVED.

ASSEMBLY BILL No. 1505, THE RAILROAD LAW.—APPROVED.

ASSEMBLY BILL No. 1490, BUSINESS CORPORATIONS LAW.—APPROVED.

ASSEMBLY BILL No. 1036, AMENDING THE PENAL CODE.—APPROVED.

STATE OF NEW YORK.

Executive Chamber,

Albany, May 18, 1892.

Memorandum filed with Assembly bill No. 1468, entitled "An act to amend the general corporation law."—Approved.

Assembly bill No. 1473, entitled "An act to amend the stock corporation law."—Approved.

Assembly bill No. 1395, entitled "An act in relation to banking corporations."—Approved.

Assembly bill No. 1341, entitled "An act in relation to insurance corporations, constituting chapter thirty-eight of the general laws."—Approved.

Assembly bill No. 1505, entitled "An act to amend the railroad law."—Approved.

Assembly bill No. 1490, entitled "An act to amend the business corporations law."—Approved.

Assembly bill No. 1036, entitled "An act to amend the Penal Code."—Approved.

These seven bills complete the revision by the Legislature of the laws relating to corporations organized for profit, and are based upon the reports of the Commissioners of Statutory Revision.

This revision inaugurates, in many important respects, a more liberal policy on the part of the State toward legitimate business enterprises necessarily carried on under corporate management. At the same time the revision adds new and more effective safeguards against corporate abuses in the way of trusts and similar combinations which have excited apprehension of danger to the public welfare.

Section 7 of the stock corporation law which applies to all corporations organized for profit is as follows:

"Sec. 7. Combinations prohibited. No stock corporation shall combine with any other corporation or person for the creation of a monopoly, or the unlawful restraint of trade or for the prevention of competition in any necessary of life."

Any doubt as to the power of the courts at common law to restrain monopolistic combinations and to adjudge contracts therefor illegal and void, is set at rest by this succinct enactment which proceeds further than the common law rule has been authoritatively declared in this State.

Much of the criticism directed against the revision has arisen from a misapprehension of its scope and a failure on the part of the critics to understand that it is intended to form a harmonious whole. There has been no attempt to embody the whole law relating to any one class of corporations in any single chapter. All the chapters of the revision are to be read in connection with the statutory construction law. The gen-

eral corporation law applies to every corporation. The stock corporation law to each corporation having capital stock. Among such are included business corporations, transportation corporations, insurance corporations, railroads and banks, and any argument based on a consideration of one of the chapters affecting only these latter interests would be incomplete and partial unless it included a careful examination of the first three mentioned. Hence restrictions and provisions which apply to all corporations or to all corporations having capital stock have been frequently overlooked by those who have examined but one of the minor bills. This has been notably the case with the provisions respecting the consolidation of corporate interests and the mortgaging of corporate property.

Again, it has been the policy of the Legislature to include as far as convenient in the Civil Code, the Penal Code and the Criminal Code, respectively, whatever provisions seemed naturally to form parts thereof, and it is for this reason that many sections defining penal offenses or providing for remedies in the courts of justice have been detached from their former context, and will now be found only in the amendments to the three codes in question.

In my annual message I called attention to the fact that criticism has been frequently made of the recent corporate legislation of the State in that its harshness was driving to New Jersey many corporations which under less severe requirements would organize under our laws and I said: "Our corporation laws should be strict enough for the protection of the public, but they should not tend to discourage the investment of money in worthy enterprises and industries within our borders."

That the emigration of capital from our State is constantly going on, the columns of the daily press bear ample witness.

It will not be surprising where so much general legislation

has been crowded into a single session, if instances shall be found where amendments would become necessary ; but on the whole I am convinced that these bills carry out to a great extent the principles cited from my message and are wise and conservative and will prove beneficial in their operation.

ROSWELL P. FLOWER.

VETO, ASSEMBLY BILL No. 1183, RELATING TO
MANUFACTURES BY CONVICTS.

STATE OF NEW YORK.

Executive Chamber,

Albany, May 19, 1892.

Memorandum filed with Assembly bill No. 1183, entitled "An act in relation to the branding and marking certain goods, wares and merchandise wholly or partially manufactured in the penal institutions of this State."—Not approved.

This bill is applicable to all shirts, collars and cuffs wholly or partially made or laundered, and to all brushes manufactured by convict labor in any penitentiary, prison, reformatory or other penal institution of this State.

By chapter 130 of the Laws of 1892, taking effect July first, next, all such labor in any such institution is absolutely prohibited. This bill, if enacted later, would seem impliedly to permit such labor upon the conditions imposed. If existing contracts should be held enforceable, notwithstanding chapter 130, which is not probable, they would by the same reasoning be held enforceable notwithstanding this bill, if it should become a law. Thus this bill would be liable to defeat the very object it seeks to accomplish.

ROSWELL P. FLOWER.

VETO, ASSEMBLY BILL No. 587, RELATING TO
TRIALS IN SPECIAL SESSIONS, NEW YORK
CITY.

STATE OF NEW YORK.

Executive Chamber,

Albany, May 19, 1892.

Memorandum filed with Assembly bill No. 587, entitled "An act to amend section two hundred and eleven of the Code of Criminal Procedure relating to defendant choosing how he shall be tried."—Not approved.

This bill would confine to cases arising in the city of New York the right of a person accused of a misdemeanor triable by a Court of Special Sessions to elect that he shall not be tried unless first indicted by a grand jury. The bill proceeds upon the erroneous theory that Courts of Special Sessions outside of New York city have only the exclusive jurisdiction given by section 56 of the Criminal Code. There are various other statutes giving courts of special sessions jurisdiction to try misdemeanors and section 211 is applicable and ought to remain applicable to such cases.

ROSWELL P. FLOWER.

VETO, ASSEMBLY BILL No. 1186, FOR A CANAL
BRIDGE IN WHITEHALL.

STATE OF NEW YORK.

Executive Chamber,

Albany, May 19, 1892.

Memorandum filed with Assembly bill No. 1186, entitled "An act authorizing the construction of a bridge over the Cham-

plain canal at the farm crossing of the late S. C. Rathbun in the town of Whitehall, and making an appropriation therefor.—Not approved.

I am informed by the State Engineer who has made a careful examination into this matter, that there is no liability resting on the State to construct a bridge at this point, and the bill is therefore disapproved.

ROSWELL P. FLOWER.

VETO, ASSEMBLY BILL No. 1166, RELATING TO DEBTORS' ASSIGNMENTS.

STATE OF NEW YORK.

Executive Chamber,

Albany, May 19, 1892.

Memorandum filed with Assembly bill No. 1166, entitled "An act to amend chapter four hundred and sixty-six of the Laws of eighteen hundred and seventy-seven, entitled 'An act in relation to assignments of the estate of debtors for the benefit of creditors' as amended by chapter three hundred and eighteen of the Laws of eighteen hundred and seventy-eight."—Not approved.

The object of this bill is to allow, for the benefit of creditors, to an assignee who is a defeated party defendant in an action to set aside the assignment for fraud, his fees and expenses in the defense in the action where he has defended in good faith.

This seems plausible on its face. But the real parties to such actions are two sets of creditors, one set seeking to sustain and the other set seeking to defeat the assignment. The assignee is but a nominal party representing the set of creditors seeking to sustain the assignment. If his expenses for

counsel, etc., in defending the action are to be paid out of the estate, the set of creditors he represents are given an undue advantage in the litigation, because they will gain the fund in controversy if they win and will gain enough of it to pay their expenses if they lose. The justice of the present law upon the subject is satisfactorily shown by Daniels, J., in *Mayer v. Hazard*, 49 Hun, 227.

ROSWELL P. FLOWER.

VETO, SENATE BILL No. 713, TO ALLOW INTEREST ON CERTAIN BOARD OF CLAIMS AWARDS.

STATE OF NEW YORK.

Executive Chamber,

Albany, May 19, 1892.

Memorandum filed with Senate bill No. 713, entitled "An act to allow interest on awards of the Board of Claims in certain cases."—Not approved.

This bill provides that the Board of Claims may allow interest on the damages awarded for injuries on account of the canals, from the time of filing the claims. In actions between individuals, interest is not ordinarily allowed on unliquidated damages arising from torts. There is no reason why the State should assume a greater liability for the torts of its officers or servants than is imposed on individuals in like cases. The bill would encourage delay in prosecuting claims against the State, which is not in as good situation as are individuals to keep track of the witnesses to the matter in controversy. If officials or employees of the State who have been guilty of the negligence giving rise to the claim are discharged or otherwise go out of office, or leave the employment of the State, their sym-

pathies are apt to be with the claimant and against the State. If any distinction is to be made between the liability of individuals and of the State for interest in such damages the distinction should be in favor of rather than against the State. This bill seems to be a step in the wrong direction.

ROSWELL P. FLOWER.

VETO, SENATE BILL No. 864, FOR REPAIRS TO
THE HIGHWAY AT OWASCO LAKE.

STATE OF NEW YORK.

Executive Chamber,

Albany, May 19, 1892.

Memorandum filed with Senate bill No. 864, entitled "An act making appropriations for protecting the highway along the foot of Owasco lake."—Not approved.

The State's alleged liability in this matter is now being tested in the courts, and while that is pending I doubt the propriety of prejudicing the litigation by any legislative enactment. To enact this bill would be, by implication at least, an assumption of the State's liability. Moreover I am informed by both the State Engineer and the Superintendent of Public Works that the evidence already brought out in the matter plainly shows that the damage sought to be repaired at State expense was not caused by the State's use of the waters of the lake.

ROSWELL P. FLOWER.

VETO, SENATE BILL No. 538, TO REGULATE
THE SALARIES OF LONG ISLAND CITY PATROLMEN.

STATE OF NEW YORK.

Executive Chamber,

Albany, May 19, 1892.

Memorandum filed with Senate bill No. 538, entitled "An act to regulate the salaries of police patrolmen in Long Island City."—Not approved.

While permissive in form this bill is practically mandatory, since it authorizes the fixing of salaries at prescribed figures, leaving nothing to the discretion of the local authorities. It should have prescribed the maximum salaries or have relegated the entire responsibility in the matter to the local authorities.

ROSWELL P. FLOWER.

VETO, SENATE BILL No. 627,—THE HARVEY
CLAIM.

STATE OF NEW YORK.

Executive Chamber,

Albany, May 19, 1892.

Memorandum filed with Senate bill No. 627, entitled "An act to regulate the custody and disbursement of experimental elevated railway income percentage special tax receipts in certain cases."—Not approved.

This is an old claim, pressed by Charles T. Harvey, a civil engineer of New York city, and arising out of alleged services to the State by Harvey in certain elevated railroad experi-

ments in the year 1867 and subsequently. Stripped of unnecessary verbiage the bill is substantially a recognition by the State of Harvey's claim and offers an opportunity to him to secure for the benefit of himself and other individuals the sum of \$206,211.70 from the city treasury of New York. A bill to accomplish this purpose was once declared to be unconstitutional by the Court of Appeals, and two measures passed since have failed to receive Executive approval.

A statement of the points involved therefore is unnecessary at the present time. After a careful consideration of the briefs and papers submitted for and against the bill, I am constrained to withhold my approval for the following reasons:

1. Because I fail to see that the State is under any pecuniary obligation to Harvey whatever.

2. Whether there is any such legal or moral obligation or not, the money with which it is provided by this bill to be paid properly belongs to the city of New York, and should not be diverted to any other than municipal purposes. It was paid under a contract made inviolable by the Legislature as compensation for the use of streets occupied by the elevated railroads. It was small enough compensation for the franchise granted, and the city should not be deprived of even this pittance.

3. The bill is of doubtful constitutionality. Not only does it threaten to impair the obligation of a contract, but it seems opposed to section 11 of article VIII of the Constitution which declares that "No county, city, town or village shall hereafter give any money or property or loan its money or credit to or in aid of any individual, association or corporation," and to section 19 of article III of the Constitution, which declares that "the Legislature shall neither audit nor allow any private claim or account against the State, but may appropriate money to pay such claims as shall have been audited and allowed according to law."

The measure is opposed by the local authorities of New York and the claim is not sustained by any general public sentiment anywhere in the State.

ROSWELL P. FLOWER.

VETO, ITEM IN SENATE BILL No. 367, MAKING
AN APPROPRIATION FOR ENLARGING THE
HOUSE OF REFUGE FOR WOMEN.

STATE OF NEW YORK.

Executive Chamber,

Albany, May 19, 1892.

Statement of item of appropriation disapproved and objected to in Senate bill No. 367, entitled "An act to amend chapter one hundred and eighty-seven of the Laws of eighteen hundred and eighty-one, entitled 'An act to provide for the establishment of a house of refuge for women,' and to amend chapter seventeen of the Laws of eighteen hundred and eighty-seven, entitled 'An act to amend chapter one hundred and eighty-seven of the Laws of eighteen hundred and eighty-one, entitled "An act to provide for the establishment of a house of refuge for women.'"

The following item of appropriation contained in section 8 of Senate bill No. 367, entitled "An act to amend chapter one hundred and eighty-seven of the Laws of eighteen hundred and eighty-one, entitled 'An act to provide for the establishment of a House of Refuge for Women,' and to amend chapter seventeen of the Laws of eighteen hundred and eighty-seven, entitled 'An act to amend chapter one hundred and eighty-seven of the Laws of eighteen hundred and eighty-

one, entitled "An act to provide for the establishment of a House of Refuge for Women," is objected to and not approved for the reasons hereinafter stated :

"Sect. 8. Section fourteen of said act of eighteen hundred and eighty-one is hereby amended so as to read as follows:

"Sect. 14. The sum of seventy-five thousand dollars is hereby appropriated for the purposes of this act. The Treasurer of the State shall, upon the warrant of the Comptroller, pay to the treasurer of the board of managers of said House of Refuge such sums as may, from time to time, be required for the erection of buildings and furnishing the same, not to exceed the sum of one hundred and fifty thousand dollars, such requirement being notified to the Comptroller by the said board of managers, in writing, specifying in items the purposes for which the said sums were required."

The House of Refuge for Women at Hudson was the first reformatory institution of the kind to be established by the State and the result of the experiment there tried has been so satisfactory as to leave no longer any doubt of the value of these institutions in reforming fallen women. The Hudson institution has been so well managed that it is estimated that seventy per cent. of the inmates are permanently reformed.

It is urged before me however by the State Board of Charities that to do effective work such institutions ought not to have more than two hundred and fifty inmates, inasmuch as when the number exceeds that figure direct reformatory influence upon the individual inmates is more difficult. The Hudson House of Refuge already has upwards of two hundred and seventy inmates. The granting of this appropriation would materially increase its capacity, and if the position of the State Board of Charities be well taken it would be wiser policy to establish separate institutions than to enlarge existing institutions beyond the limit of their usefulness.

With this in view I have already approved the bill to establish a women's reformatory in New York or Westchester county, and this proposed institution, together with the new one at Albion which is to be opened to commitments in No-

vember next, ought to be sufficient to supply the needs of the State for a number of years. The new facilities thus afforded for the commitment of this class of women make unnecessary the enlargement of the Hudson institution, even were that advisable.

The other provisions of the bill, some of which are meritorious, will remain although this appropriation be vetoed.

ROSWELL P. FLOWER.

VETO, SENATE BILL No. 553, TO REGULATE HOURS
OF LABOR ON STREET SURFACE RAILROADS.

STATE OF NEW YORK.

Executive Chamber,

Albany, May 20, 1892.

Memorandum filed with Senate bill No. 553, entitled "An act to amend sections one and two of chapter five hundred and twenty-nine of the Laws of eighteen hundred and eighty-seven, entitled 'An act to regulate the hours of labor in the street surface railroads, chartered by the State.'"—Not approved.

This bill is radically defective in form. It would apparently exempt elevated railroad employees from the provisions of the act amended. This, I am sure, could not have been the intention of the bill's framers, and would work injustice to a large class of employees in New York and Brooklyn.

ROSWELL P. FLOWER.

MEMORANDUM FILED WITH ASSEMBLY BILL No.
1460, LIMITING THE HOURS OF SERVICE ON
RAILROADS.—APPROVED.

STATE OF NEW YORK.

Executive Chamber,

Albany, May 20, 1892.

Memorandum filed with Assembly bill No. 1460, entitled "An act to provide for and limit the hours of service on railroads." — Approved.

I cannot describe the purpose of this bill more fairly than by quoting the introductory paragraph of one of the briefs submitted in opposition to the measure by one of the prominent railroad companies of the State. "This bill," says the brief, "has three objects: first, that no engineer, fireman, conductor or trainman who has rendered twenty-four hours continuous service shall thereafter — under ordinary circumstances — continue service or resume service without first having had at least eight hours' rest. Second, that the working day of every engineer, fireman, conductor and trainman shall not exceed ten hours of service rendered within twelve consecutive hours; and third, that if any such engineer, fireman, conductor or trainman shall render more than ten hours service he shall receive comparative compensation for the excess in addition to his daily compensation."

The legislation is urged in the interest of both railroad employees and the traveling public. It is in line with the general demand for shorter hours of labor. I have given it my approval with the hope that it will accomplish the object sought.

ROSWELL P. FLOWER.

MEMORANDUM FILED WITH ASSEMBLY BILL
NO. 1422, TO ESTABLISH THE ADIRONDACK
PARK.—APPROVED.

STATE OF NEW YORK.

Executive Chamber,

Albany, May 20, 1892.

Memorandum filed with Assembly bill No. 1422, entitled "An act to establish the Adirondack park and to authorize the purchase and sale of lands within the counties including the forest preserve."—Approved.

The object of this bill is to enable the State judiciously to increase and consolidate its holdings of forest lands in the Adirondack wilderness. Out of the 3,700,000 acres of land comprised in this region the State now owns about 900,000 acres, half of which is situated in detached pieces around the border of the wilderness. The intention of the act is to enable the State to sell as much of this outside holding as may seem wise, and to buy, in place of the lands thus sold, more desirable timber lands nearer the heart of the forest and nearer the head waters of the great streams which have their source in the Adirondacks, so that the ends sought to be attained by the establishment of an Adirondack park may be more certainly accomplished.

The advantage of this legislation is twofold. In the first place it is estimated that the State will be able thereby to increase the acreage which it holds—much of the State property now situated on the outskirts of the Adirondacks being quite saleable, it is said, and likely to bring higher prices than it will be necessary to pay for interior lands which are really better adapted for the State's purpose.

Secondly, the carrying out of the project contained in the bill will consolidate the State's holdings and enable the State to pursue some rational and practical system of forestry, which is virtually impossible now with the State lands scattered as they are all over the forest preserve and consisting of widely varying territory.

The scheme proposed by the bill, it will be understood from the above description, carries no appropriation with it, but all revenues from the sale of the so-called "outside" lands will be devoted to the purchase of new lands better adapted for the purposes of a forest preserve. Eventually the State preserve ought to pay the expense of its maintenance from the judicious sale of timber and the leasing, at moderate rentals, of small parcels of land to individuals for the establishment of summer homes under proper regulations.

I have cheerfully approved the measure, for I believe thoroughly in the wisdom and actual necessity of preserving this great timbered wilderness for the protection of the head waters of our streams and for the benefit to agricultural interests which it yields in its important influence upon our rain-falls. No State is more fortunate than ours in its lakes and streams, and it should be the duty of the present generation to see that these natural advantages which we now enjoy are not lost through indifference or waste. The Adirondacks, at an altitude ranging from 1,000 to 5,000 feet above the sea, are the sources of the Hudson, Oswegatchie and Black rivers and of innumerable smaller streams which feed our lakes and supply many of our water-ways. To suffer their destruction will be to threaten the State with serious injury. Not only would it cripple commerce by depriving the Erie canal of a regularity of supply from one of its best feeders, the Black river, but it would probably change materially the climatic conditions now prevailing in the State, much to the detriment of our farmers

who need the uniform and steady character of rain-fall which our abundant forests and numerous bodies of water guarantee. For illustrations of the probable effect upon agricultural interests we have only to refer to the long periods of drouth and uncertain rain-falls in some of the treeless States of the West, like Kansas, Nebraska, Montana and the Dakotas.

The proposed State forest preserve is a subject which interests alike every citizen of the State, and for that reason is worthy of general encouragement and support.

ROSWELL P. FLOWER.

LIST OF BILLS UNSIGNED.

The Legislature of 1892 left 447 bills in the Governor's hands at the time of its adjournment, of which number he approved 351, leaving 96 which did not receive his approval within thirty days and therefore failed to become laws.

With 44 of the latter the Governor filed memorandums of disapproval, stating his reasons therefor in full. The following 52 were either defective in form or matter, opposed by local authorities, or rendered unnecessary by the enactment of other bills:

A. 1277. An act authorizing the completion of the State armory at Olean, Cattaraugus county, and providing for the payment of expenses incurred in the erection thereof, and making an appropriation therefor.

A. 25. An act to amend section one hundred and seventy-eight of chapter five hundred and sixty-nine of the Laws of eighteen hundred and ninety, entitled "An act in relation to towns, constituting chapter twenty-five of the general laws, passed June seven, eighteen hundred and ninety."

S. 435. An act to amend chapter fifty-three of the Laws of eighteen hundred and thirty, entitled "An act to incorporate the Clinton hall association in the city of New York," as amended by chapter twenty-two of the Laws of eighteen hundred and fifty-three, entitled "An act to amend an act entitled

'An act to incorporate the Clinton hall association of the city of New York,' " passed February twenty-third, eighteen hundred and thirty.

A. 897. An act to amend chapter five hundred and forty-two of the Laws of eighteen hundred and seventy-nine, entitled "An act amending the Code of Civil Procedure."

A. 459. An act to amend chapter fifty-one of the Laws of eighteen hundred and ninety, entitled "An act relating to the liabilities and remedies of husband and wife."

S. 529. An act to amend section four of title four of chapter five hundred and eighty-three of the Laws of eighteen hundred and eighty-eight, entitled "An act to revise and combine in a single act all existing special and local laws affecting public interests in the city of Brooklyn," referring to taxation on the stocks or bonds of said city.

S. 590. An act providing for the formation and management of co-operative savings and loan associations.

S. 653. An act to amend section three of article one of title four of chapter two of part four of the Revised Statutes, as amended by chapter one hundred and fifty-six of the Laws of eighteen hundred and ninety.

S. 749. An act to amend chapter ninety of the Laws of eighteen hundred and sixty-five, entitled "An act to amend and consolidate the several acts relating to the village of Ilion."

A. 1184. An act to amend chapter five hundred and fifteen of the Laws of eighteen hundred and eighty-nine, entitled "An act to prevent deception in sales of vinegar, and charging the New York State Dairy Commissioner with its enforcement."

A. 1101. An act to authorize the city of Brooklyn to purchase certain land in the sixteenth ward of said city, to be used for street purposes.

A. 406. An act to amend chapter one hundred and seven of the Laws of eighteen hundred and eighty-four, entitled "An act in relation to the collection of taxes in Monroe county, and to authorize and provide for the sale of property for unpaid taxes in said county."

A. 679. An act conferring jurisdiction upon the Board of Claims to hear, audit and determine the claim of Charles McKinstry against the State of New York.

A. 552. An act assuming liability by the State of New York for injuries sustained by Michael Strohman, and conferring jurisdiction upon the Board of Claims to hear, audit and determine the same.

A. 952. An act to amend subdivision three of section eighty-six of chapter four hundred and ten of the Laws of eighteen

hundred and eighty-two, entitled "An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York," as amended by chapter four hundred and eighteen of the Laws of eighteen hundred and eighty-seven, and chapter one hundred and fifteen of the Laws of eighteen hundred and eighty-eight, relative to powers of common council.

A. 1068. An act to amend chapter one hundred and twenty-nine of the Laws of eighteen hundred and seventy-two, entitled "An act to amend an act passed May third, eighteen hundred and seventy, entitled 'An act to amend an act to incorporate the city of Troy, passed April twelfth, eighteen hundred and sixteen,' and the several acts amendatory thereto, and also to amend other acts relating to the city of Troy," as amended by chapter sixty-seven of the Laws of eighteen hundred and seventy-seven, and as further amended by chapter thirty of the Laws of eighteen hundred and eighty, and as further amended by chapter two hundred of the Laws of eighteen hundred and ninety-one.

S. 355. An act to amend section two hundred and twenty-one of chapter five hundred and sixty-nine of the Laws of eighteen hundred and ninety, entitled "An act in relation to towns, constituting chapter twenty of the general laws."

S. 416. An act to amend section one hundred and one, article four, chapter five hundred and sixty-five of the Laws of eighteen hundred and ninety, entitled "An act in relation to railroads constituting chapter thirty-nine of the general laws."

A. 1219. An act to amend chapter two hundred and sixty-two of the Laws of eighteen hundred and ninety, entitled "An act to promote the independence of voters at public elections, enforce the secrecy of the ballot and provide for the printing and distribution of ballots at public expense."

A. 1178. An act to amend sections thirty-three hundred and four and thirty-three hundred and seven of the Code of Civil Procedure, relative to sums allowed as fees.

A. 347. An act to incorporate the Grand Assembly of New York, order of the International Fraternal Alliance.

S. 642. An act to amend section eighteen hundred and sixty-six of chapter four hundred and ten of the Laws of eighteen hundred and eighty-two, entitled "An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York," as amended by chapter four hundred and ninety of the Laws of eighteen hundred and eighty-seven.

S. 159. An act to remove obstructions from the channel of the State ditch between Liverpool and Mud Lock, in the town

of Salina, Onondaga county, to improve the sanitary condition thereof, and to make an appropriation therefor.

S. 246. An act to legalize and confirm the official acts of Julia C. Swikehard as commissioner of deeds in and for the city of Rochester, Monroe county, New York.

A. 451. An act to regulate the practice of architecture.

A. 996. An act to amend section one of chapter two hundred and sixty-nine of the Laws of eighteen hundred and eighty-six, entitled "An act to regulate the use of public highways."

A. 784. An act to amend sections six hundred and fifty-eight and fourteen hundred and nineteen of the Code of Civil Procedure, in relation to filing of bonds.

A. 968. An act to amend chapter five hundred and forty-five of the Laws of eighteen hundred and ninety, entitled "An act providing for the election of a commissioner of street improvements of the twenty-third and twenty-fourth wards of the city of New York, and transferring to him certain powers now possessed by the department of public parks of said city in relation to the public improvements of said wards, and constituting him a member of the board of street opening and improvements of said city."

S. 644. An act to further amend section eighteen hundred and fifty of chapter four hundred and ten of the Laws of eighteen hundred and eighty-two, entitled "An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York," as amended by chapter four hundred and ninety of the Laws of eighteen hundred and eighty-seven.

A. 1330. An act amending section nineteen hundred and twenty-nine of chapter four hundred and ten of the Laws of eighteen hundred and eighty-two, entitled "An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York," relating to advertising boundaries of election districts, et cetera.

A. 1241. An act to amend chapter five hundred and ninety-one of the Laws of eighteen hundred and eighty, entitled "An act for the appointment of game and fish protectors," as amended by chapter three hundred and seventeen of the Laws of eighteen hundred and eighty-three.

A. 760. An act for the preservation of health and the prevention of nuisances in cities and incorporated villages.

A. 1379. An act to provide for the erection of fire hydrants and for supplying the same with water in the town of New Utrecht, county of Kings.

A. 838. An act to amend section four of title eleven of chapter five hundred and eighty-three of the Laws of eighteen hundred and eighty-eight, entitled "An act to revise and combine in a single act all existing special and local laws affecting public interests in the city of Brooklyn," and the several acts amendatory thereof relating to police and excise.

S. 790. An act conferring jurisdiction upon the Board of Claims to hear, audit and determine the claims of Archibald McIntyre, personally, and as executor and his successors in interest and subsequent grantees and owners against the State.

S. 446. An act to amend chapter five hundred and seventy-three, of the Laws of eighteen hundred and eighty-six, entitled "An act to revise, consolidate and amend chapter two hundred and eighty-seven of the Laws of eighteen hundred and seventy-nine, and chapter three hundred and sixty-two of the Laws of eighteen hundred and eighty, relating to the formation of town and county co-operative insurance companies, and the acts amendatory thereof."

A. 1208. An act to amend chapter two hundred and twenty-three of the Laws of eighteen hundred and eighty-five, entitled "An act for the relief of William L. Cole, Thomas F. Meehan, and J. M. Meehan."

A. 435. An act to amend section thirteen hundred and forty-seven of the Code of Civil Procedure, relating to orders and appeals therefrom.

A. 720. An act to further amend chapter four hundred and nine of the Laws of eighteen hundred and eighty-two, entitled "An act to revise the statutes of this State relating to banks, banking and trust companies."

A. 828. An act to authorize the improvement of the con-course lands at Coney Island, in Kings county.

A. 340. An act to amend sections four, fifty-two and fifty-four of title eleven of chapter five hundred and eighty-three of the Laws of eighteen hundred and eighty-eight, entitled "An act to revise and combine in a single act all existing special and local laws affecting public interests in the city of Brooklyn," relative to the department of police and excise.

A. 134. An act to exempt the sanitarium for Hebrew children of the city of New York from the payment of taxes or assessments on property owned and to be actually occupied and used by it for charitable and benevolent purposes at Rock-away Beach, town of Hempstead, Queens county, New York, passed eighteen hundred and ninety-one.

A. 718. An act to amend sections one and three of chapter five hundred and forty-two of the Laws of eighteen hundred and eighty, entitled "An act to provide for raising taxes for

the use of the State upon certain corporations, joint stock companies and associations," as amended by chapter three hundred and sixty-one of the Laws of eighteen hundred and eighty-one, and subsequent acts.

A. 1365. An act to authorize the appointment of a special detective officer in the several counties of this State, defining the powers and duties, and providing for the compensation of such officer.

A. 1359. An act to amend chapter four hundred and fifty-four of the Laws of eighteen hundred and seventy-four, entitled "An act to authorize the board of supervisors of Erie county to regulate the publishing of election notices in said county," passed May twelfth, eighteen hundred and seventy-four.

A. 1110. An act to amend section thirty-two hundred and fifty-three of the Code of Civil Procedure, relative to costs in foreclosure.

A. 1062. An act to amend chapter three hundred and thirteen of the Laws of eighteen hundred and eighty-six, entitled "An act to regulate the practice of veterinary medicine and surgery in the State of New York," as amended by chapter one hundred and sixty-six of the Laws of eighteen hundred and eighty-seven, and chapter five hundred and thirty-seven of the Laws of eighteen hundred and eighty-nine, and chapter four hundred and nineteen of the Laws of eighteen hundred and ninety.

A. 631. An act to amend section nine hundred and forty-four of the Code of Criminal Procedure relative to the criminal statistics.

A. 463. An act to promote the usefulness of the Senate and Assembly libraries.

A. 139. An act to incorporate the Troy and Green Island Bridge Company, for the purpose of constructing and maintaining a bridge, appurtenances and approaches to the same over the Hudson river, from the foot of Douw street, in the city of Troy, to some point in the village of Green Island on the opposite side of said Hudson river.

S. 2. An act to enable the commissioners appointed to construct a bridge over the Harlem river in the city of New York, in pursuance of the provisions of chapter four hundred and eighty-seven of the Laws of eighteen hundred and eighty-five, to close up their affairs and vacate their offices.

S. 781. An act to authorize the Board of Claims to hear, audit and determine certain claims of the city of Rochester against the State.

PROCLAMATION OF REWARD FOR THE ARREST
OF DAVID A. DISHLER.

STATE OF NEW YORK.

Executive Chamber.

WHEREAS, David A. Dishler was duly indicted by the grand jury of the county of Oneida for aiding in the escape of one Thomas O'Brien, a felon, and has ever since evaded arrest and has not been apprehended ;

Now, therefore, a reward of five hundred dollars is hereby offered, to be paid to any person who shall cause the arrest and delivery to the Sheriff of the county of Oneida of the said David A. Dishler.

Given under my hand and the privy seal of the State, at
the Capitol in the city of Albany, this seventeenth
[L. S.] day of June in the year of our Lord one thousand
eight hundred and ninety-two.

ROSWELL P. FLOWER.

By the Governor :

T. S. WILLIAMS,

Private Secretary.

PROCLAMATION OF REWARD FOR THE ARREST
OF WILLIAM E. MINCHON.

STATE OF NEW YORK.

Executive Chamber.

WHEREAS, William E. Minchon was duly indicted by the grand jury of the county of Oneida for aiding in the escape of one Thomas O'Brien, a felon, and has ever since evaded arrest and has not been apprehended ;

Now, therefore, a reward of five hundred dollars is hereby offered, to be paid to any person who shall cause the arrest and delivery to the Sheriff of the county of Oneida of the said William E. Minchon.

Given under my hand and the privy seal of the State, at the Capitol in the city of Albany, this seventeenth
[L. S.] day of June in the year of our Lord one thousand eight hundred and ninety-two.

ROSWELL P. FLOWER.

By the Governor :

T. S. WILLIAMS,

Private Secretary.

APPOINTMENT OF AN EXTRAORDINARY CIRCUIT AND SPECIAL TERM OF THE SUPREME COURT.

STATE OF NEW YORK.

Executive Chamber.

IT APPEARING to my satisfaction that the public interest requires it ;

Therefore, in accordance with the statute in such case made and provided, I do hereby appoint an Extraordinary Circuit Court and Special Term of the Supreme Court to be held at the court-house in the city of Syracuse, in and for the county of Onondaga, on Monday the first day of August, 1892, at eleven o'clock in the forenoon of that day, and to continue so long as may be necessary for the disposal of the business that may be brought before it ; and

I do hereby designate the Honorable HAMILTON WARD, a Justice of the Supreme Court, to hold the said Extraordinary Circuit Court and Special Term of the Supreme Court as herein described ; and

I do further direct that notice of such appointment be given by publication once in the *Courier*, a newspaper published at Syracuse, and once in the *Argus*, a newspaper published at Albany.

Given under my hand and the privy seal of the State, at the Capitol in the city of Albany, this eighth day of [L. S.] July in the year of our Lord one thousand eight hundred and ninety-two.

ROSWELL P. FLOWER.

By the Governor:

T. S. WILLIAMS,

Private Secretary.

APPOINTMENT OF AN EXTRAORDINARY OYER
AND TERMINER FOR SULLIVAN COUNTY.

STATE OF NEW YORK.

Executive Chamber.

IT APPEARING to my satisfaction that the public interest requires it,

Therefore, in accordance with the statute in such case made and provided, I do hereby appoint an Extraordinary Court of Oyer and Terminer to be held at the court-house in the village of Monticello and county of Sullivan, on Tuesday, the sixteenth day of August next, at ten o'clock in the forenoon of that day, and to continue so long as may be necessary for the disposal of the business that may be brought before it; and

I do hereby designate the Honorable EDGAR L. FURSMAN, a Justice of the Supreme Court, to hold the said Extraordinary Court of Oyer and Terminer; and

I direct the District Attorney of the county of Sullivan to issue a precept in accordance with the statute in such case

made and provided, directed to the Sheriff of the said county of Sullivan, requiring him to do and perform all that may be necessary on his part in the premises; and

I do further direct that notice of such appointment be given by publication of this order once in each week for three successive weeks in the *Argus*, a newspaper published at Albany, and in the *Republican Watchman*, a newspaper published at Monticello.

Given under my hand and the privy seal of the State at the Capitol in the city of Albany, this twenty-fifth [L. S.] day of July, in the year of our Lord one thousand eight hundred and ninety-two.

ROSWELL P. FLOWER.

By the Governor:

T. S. WILLIAMS,

Private Secretary.

APPOINTMENT OF AN EXTRAORDINARY GENERAL TERM OF THE SUPREME COURT.

STATE OF NEW YORK,

Executive Chamber.

IT APPEARING to my satisfaction that the public interest requires it,

Therefore, by virtue of the authority vested in me by section 234 of the Code of Civil Procedure, I hereby appoint an extraordinary general term of the Supreme Court for the Fifth Department to be held at the court-house in the city of Buffalo on Tuesday the sixteenth day of August next at ten o'clock in the forenoon of that day; and

I do further direct that notice of such appointment be given by publication of this order once in the *Argus*, a newspaper published at Albany, and in the *Times*, a newspaper published at Buffalo.

Given under my hand and the privy seal of the State, at the Capitol in the city of Albany this twenty-eighth [L. S.] day of July in the year of our Lord one thousand eight hundred and ninety-two.

ROSWELL P. FLOWER.

By the Governor:

T. S. WILLIAMS,

Private Secretary.

ORDER DISMISSING CHARGES AGAINST HENRY
G. KILBURN, DISTRICT ATTORNEY.

STATE OF NEW YORK.

Executive Chamber.

*In the Matter of the Charges against Henry G. Kilburn, District
Attorney of Franklin county.*

Charges of misconduct in office having been preferred against HENRY G. KILBURN, District Attorney of Franklin county, and a copy of said charges having been served upon said Kilburn and an opportunity given him to make defense thereto, and he having duly filed his answer denying the said charges, and it having thereafter been duly referred to Albert F. Saunders, as Commissioner, to take testimony in support of and in opposition to said charges and to report the material facts which he deemed established by the evidence, and the said Commissioner having proceeded upon such hearing and taken the testimony which was offered by either side and having made and filed his report, and after due consideration of said report and of the briefs submitted by the counsel on both

I do further direct that notice of such appointment be given by publication once in the *Democrat*, a newspaper published at Wellsville, and once in the *Argus*, a newspaper published at Albany.

Given under my hand and the privy seal of the State, at the Capitol in the city of Albany, this nineteenth [L. S.] day of September, in the year of our Lord one thousand eight hundred and ninety-two.

By the Governor: ROSWELL P. FLOWER.
T. S. WILLIAMS,
Private Secretary.

ORDER DISSOLVING THE SECOND DIVISION OF THE COURT OF APPEALS.

STATE OF NEW YORK.

Executive Chamber.

IT APPEARING to my satisfaction, upon the certification of the Judges of the Court of Appeals elected as such, that the emergency requiring the formation of the Second Division of the Court of Appeals has ceased to exist;

Now, therefore, by virtue of the power in me vested by article VI of the Constitution of this State, I hereby declare the said Second Division of the Court of Appeals dissolved.

Given under my hand and the privy seal of the State, at the Capitol in the city of Albany, this first day [L. S.] of October in the year of our Lord one thousand eight hundred and ninety-two.

By the Governor: ROSWELL P. FLOWER.
T. S. WILLIAMS,
Private Secretary.

PROCLAMATION RELATING TO VIOLATION OF
ELECTION LAWS.

STATE OF NEW YORK.

Executive Chamber.

On Tuesday next, November 8th, the people of the United States will exercise the privilege of American citizenship and determine by their votes what political principles shall, during the time fixed by the Constitution, control the administration and legislation of federal government.

It is essential to our liberties and to the fair name of our country that this expression of popular judgment should be absolutely untrammelled and honest.

When the control of office is secured by intimidation or corruption, and governmental policy is determined by the bribery of voters, elections become a farce and representative government a sham.

An honest ballot and a fair count are of more importance to the American people than any political issues raised in this campaign by any party.

I call upon the people of this State to see that the election in this commonwealth shall be an honest one. Recent enactments by the Legislature have imposed almost every possible safeguard around the sanctity of the ballot. The honor of our State and our love for American institutions demand that every citizen should obey these laws and look to their enforcement.

The Constitution of the State, in article II, section 2 and chapter 680 of the Laws of 1892 give to every elector individually, or through a watcher at the polls, the right to demand from every person suspected of bribing voters, or of being bribed, and offering to vote the following oath:

"You do swear (or affirm) that you have not received or offered, do not expect to receive, have not paid, offered or promised to pay, contributed, offered or promised to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at this election, and have not made any promise to influence the giving or withholding of any such vote; and that you have not made, or become directly or indirectly interested in any bet or wager depending upon the result of this election."

That right of challenge, exercised intelligently and fearlessly, supplies to every citizen a weapon of defense against corruption and will greatly assist in frightening dishonest voters from the polls.

In addition I call upon all election officers, all District Attorneys, all Sheriffs and peace officers to see that the laws of the State are rigidly enforced, to the end that good order may prevail at the polls and the right of honest franchise be sacredly guarded: and I give warning that all failures on the part of such public officers to discharge their full duty in the complete enforcement of the laws shall be considered sufficient cause for their removal.

Done at the Capitol in the city of Albany, this fourth
[L. S.] day of November in the year of our Lord one thousand eight hundred and ninety-two.

ROSWELL P. FLOWER.

By the Governor:

T. S. WILLIAMS,

Private Secretary.

THANKSGIVING PROCLAMATION.

STATE OF NEW YORK.

Executive Chamber.

Under the authority vested in the Governor by the laws of the State, I do hereby appoint Thursday, the twenty-fourth day of November, to be a day of general thanksgiving and prayer.

The people of the State have much to be thankful for in the blessings which the year now drawing to its close has yielded. God has been merciful in sparing us from threatened disease, from civil disorder, from serious conflict between employers and employees, and from commercial and agricultural distress. Crops have been plentiful, business has been active, industry has been well rewarded, intelligence and learning have been more widely diffused, and contentment and happiness prevail generally within the borders of our Commonwealth.

Let us then all join in praise and gratitude to Him who has made us the recipients of His mercy, and on the day appointed let us assemble in our houses of worship and with devout spirit acknowledge our indebtedness and responsibility to Almighty God. Let us seek His guidance and care during the year that is to come, to the end that as a people we may be blessed with a continuance of His mercies and promote His cause of Justice, Equality and Fraternity upon earth.

Let us reflect His love among our fellow men — sharing our plenty with the poor, comforting the sick, cheering the unfortunate and manifesting charity toward all men.

Done at the Capitol in the city of Albany, this tenth
[L. S.] day of November in the year of our Lord, eighteen
hundred and ninety-two.

By the Governor:

ROSWELL P. FLOWER.

T. S. WILLIAMS,

Private Secretary.

DESIGNATION OF JUSTICE FOLLETT TO THE
GENERAL TERM, FIRST DEPARTMENT.

STATE OF NEW YORK.

Executive Chamber.

In accordance with the statute in such case made and provided, the

HONORABLE DAVID L. FOLLETT,

a Justice of the Supreme Court of the Sixth Judicial District, is hereby designated as Associate Justice of the General Term for the First Department of the Supreme Court, in the place of and for the unexpired designation of the Honorable George C. Barrett, whose designation has been, and at his own request, revoked.

Given under my hand and the privy seal of the State, at
[L. S.] the Capitol in the city of Albany, this eighteenth
day of November, A. D., 1892.

ROSWELL P. FLOWER.

By the Governor:

T. S. WILLIAMS,

Private Secretary.

DESIGNATION OF JUDGE BEACH FOR THE FIRST
JUDICIAL DISTRICT, SUPREME COURT.

STATE OF NEW YORK.

Executive Chamber.

IT APPEARING to my satisfaction, upon the application of the Honorable Charles H. Van Brunt, Presiding Justice of the General Term of the First Department of the Supreme Court, that the public interest requires it ;

Therefore, in accordance with the statute in such case made and provided, the

HONORABLE MILES BEACH,

a Judge of the Court of Common Pleas of the city and county of New York, is hereby designated to hold Special Terms and Circuit Courts of the said Supreme Court for the First Judicial District, at the court-house in the city of New York, in the months of January, February, March, April, May, June, October, November and December in the year 1893, and to hold Special Terms of the said Supreme Court for the First Judicial District, at the court-house in the city of New York, in the months of July, August and September in the said year 1893

Given under my hand and the privy seal of the State, at [L. S.] the Capitol in the city of Albany, this twenty-eighth day of November, A. D. 1892.

ROSWELL P. FLOWER.

By the Governor:

T. S. WILLIAMS,

Private Secretary.

DESIGNATION OF JUDGE TRUAX FOR THE FIRST JUDICIAL DISTRICT, SUPREME COURT.

STATE OF NEW YORK.

Executive Chamber.

IT APPEARING to my satisfaction, upon the application of the Honorable Charles H. Van Brunt, Presiding Justice of the General Term of the First Department of the Supreme Court, that the public interest requires it ;

Therefore, in accordance with the statute in such case made and provided, the

HONORABLE CHARLES H. TRUAX

a Judge of the Superior Court of the city and county of New York, is hereby designated to hold Special Terms and Circuit Courts of the said Supreme Court for the First Judicial District, at the court-house in the city of New York, in the months of January, February, March, April, May, June, October, November and December in the year 1893, and to hold Special Terms of the said Supreme Court for the First Judicial District, at the court-house in the city of New York, in the months of July, August and September in the said year 1893.

Given under my hand and the privy seal of the State, at [L. S.] the Capitol in the city of Albany, this twenty-eighth day of November, A. D. 1892.

ROSWELL P. FLOWER.

By the Governor:

T. S. WILLIAMS,

Private Secretary.

DESIGNATION OF JUSTICE MACOMBER TO THE
GENERAL TERM, FIFTH DEPARTMENT.

STATE OF NEW YORK.

Executive Chamber.

In accordance with the statute in such case made and provided, the

HONORABLE FRANCIS A. MACOMBER,

a Justice of the Supreme Court of the Seventh Judicial District (re-elected), is hereby designated as Associate Justice of the General Term for the Fifth Department of the Supreme Court from and after the first day of January, A. D. 1893, his

previous designation as Associate Justice being about to expire because of the close of his official term on December thirty-first, 1892.

Given under my hand and the privy seal of the State, at
[L. S.] the Capitol in the city of Albany, this twenty-eighth
day of November, A. D. 1892.

ROSWELL P. FLOWER.

By the Governor:

T. S. WILLIAMS,

Private Secretary.

DESIGNATION OF JUSTICE PUTNAM TO THE GENERAL TERM, THIRD DEPARTMENT.

STATE OF NEW YORK.

Executive Chamber.

In accordance with the statute in such case made and provided, the

HONORABLE JOHN R. PUTNAM,

a Justice of the Supreme Court of the Fourth Judicial District, is hereby designated as Associate Justice of the General Term for the Third Department of the Supreme Court from and after the first day of January, A. D. 1893, his previous designation as Associate Justice for said department being about to expire.

Given under my hand and the privy seal of the State,
[L. S.] at the Capitol in the city of Albany, this twenty-eighth day of November, A. D. 1892.

ROSWELL P. FLOWER.

By the Governor:

T. S. WILLIAMS,

Private Secretary.

DESIGNATION OF JUDGE HAIGHT TO THE
GENERAL TERM, FIFTH DEPARTMENT.

STATE OF NEW YORK.

Executive Chamber.

In accordance with the statute in such case made and provided, the

HONORABLE ALBERT HAIGHT,

a Justice of the Supreme Court of the Eighth Judicial District, is hereby designated as Associate Justice of the General Term for the Fifth Department of the Supreme Court from and after the first day of January, A. D. 1893, his prior designation as Associate Justice for said department having long since expired.

Given under my hand and the privy seal of the State,
[L. S.] at the Capitol in the city of Albany, this eighth day of December, A. D. 1892.

ROSWELL P. FLOWER.

By the Governor:

T. S. WILLIAMS,

Private Secretary.

THE BUFFALO STRIKE.

CORRESPONDENCE AND OFFICIAL UTTERANCES RELATIVE TO THE CALLING OUT OF THE NATIONAL GUARD IN AUGUST, 1892.

TELEGRAM FROM SHERIFF OF ERIE COUNTY.

BUFFALO, N. Y., *August 15, 1892.*

ROSWELL P. FLOWER, *Governor, State of New York, Albany, N. Y.:*

In discharge of my duties I have called on General Doyle to order two regiments of his Brigade to assist me in quieting disturbance caused by strike of switchmen on Erie and Lehigh Valley Railroad Company.

AUGUST BECK,
Sheriff.

TELEGRAM FROM REPRESENTATIVES OF RAILROAD COMPANIES TO THE GOVERNOR.

BUFFALO, N. Y., *August 17, 1892.*

Hon. R. P. FLOWER, *Governor, Executive Mansion, Albany:*

Representatives of the several railways affected by the strike in Buffalo have at this hour (5 o'clock) closed a conference with Sheriff Beck. At twelve o'clock the message communicated to you to-day was agreed upon after a conference by the same parties with the Sheriff. Later the Sheriff went to Brigade Head-quarters and conferred with General Doyle, who approved the message and stated that he had telegraphed the Adjutant-General to like effect. The Sheriff now advises that he does not feel justified in calling upon the Governor for troops for the reason that there is actually no violence or destruction of property going on at the present time. The situation is critical. All of the railroad companies have sufficient force to move their trains if adequate protection is afforded. Brigadier-General Doyle advises the several companies that he has not adequate force to protect any of them in moving their trains. We believe that the National Guard should be called out immediately. You have full authority without request from Sheriff or other local officer. (See

section III of the Criminal Code). The Sheriff evidently will not act as requested until further actual riot or bloodshed. It is our desire to secure sufficient protection to avoid these things.

New York Central and Hudson River Railroad Company and
West Shore Railroad Company,

H. WALTER WEBB, *3rd Vice-President*,
DANIEL H. McMILLAN, *Counsel*;

The New York, Lake Erie and Western Railroad Company and
Buffalo Creek Railway Company,

By E. C. SPRAGUE, *Counsel*;

The Philadelphia and Reading Railroad Company and the Lehigh
Valley Railroad Company,

By W. K. NIVER, *General Agent*,
W. S. BISSELL, *Counsel*.

THE GOVERNOR'S REPLY.

ALBANY, *Aug. 17, 1892.*

H. WALTER WEBB, *Buffalo, N. Y.:*

Your despatch received. I cannot furnish troops except upon call of the civil authorities, and then the whole National Guard is at their service to aid them in suppressing violence and enforcing the law.

R. P. FLOWER.

STATEMENT BY THE GOVERNOR IN REPLY TO INQUIRIES BY THE PRESS, AUG. 17, 1892.

"I have received no communication from the sheriff of Erie county to-day. I have been informed that the sheriff has declined to request me to call out any further detachments of the National Guard to assist him in preserving the peace in his county, upon the ground that no actual violence is now being committed or is imminently threatened to persons or property in that county. I am only authorized to call out the National Guard for the purpose of assisting the civil authorities. Whenever the civil authorities call on me for assistance the whole National Guard is at their service to aid them in suppressing violence and enforcing the law.

"It is a great pity that the cause of the employees should be prejudiced by criminal recklessness, for which the labor organizations deny responsibility.

"Labor difficulties cannot be solved by disorder and violence. Employees have the right to strike and peaceably persuade others to join them, but they have no right to destroy property or to attack persons. So long as they keep within the law, the State government will leave railroad companies and their employees to fight their own battles. But law must be observed, persons and property must be protected and the lawful use of property by its owners must not be interfered with. These are the ends for which the State primarily

exists. For the maintenance of these ends every dollar of the State's money, the life and services of every member of its National Guard and the support of every law-abiding citizen are pledged.

"The law is ample for promptly calling the National Guard to any locality suffering from or threatened with disorder which local authorities may be unable to suppress. The National Guard of this State is ample in numbers and efficiency for the suppression of riotous interference with persons or property anywhere within the borders of the State. There will be no hesitation or delay by the State authorities or by the officers or members of the National Guard in using every necessary means, promptly and efficiently, for the suppression of all forms of lawless violence whenever the local authorities call for assistance, or are manifestly unable to preserve order."

THE APPEAL OF SHERIFF BECK AND MAYOR BISHOP FOR TROOPS.

BUFFALO, August 18, 1892.

Hon. ROSWELL P. FLOWER, *Governor, Executive Mansion, Albany, N. Y.:*

We have become satisfied that the situation here in Buffalo under the pending strike has become so serious that we ask that the National Guard of the State be called out to protect the lives and property of citizens of this city and county.

AUGUST BECK,
Sheriff.
CHARLES F. BISHOP,
Mayor.

THE GOVERNOR ACCEDES.

ALBANY, August 18, 1892.

AUGUST BECK, *Sheriff, Buffalo, N. Y.:*

Your telegram was received at one-thirty this morning, and the Governor immediately directed the Adjutant-General to send you ample relief at once.

E. L. JUDSON,
Military Secretary.

[NOTE.—A similar reply was sent to Mayor Bishop.]

PROCLAMATION BY THE GOVERNOR.

STATE OF NEW YORK.

Executive Chamber.

In view of continued attempts at the destruction of property and malicious interference with the running of railway trains in certain sections of the State, I deem it my duty to direct the attention of the people of the State to the provisions of the Penal Code relating to such offenses, as amended by the Legislature during the present year.

Section 635 of the Penal Code, as amended by chapter 692 of the Laws of 1892, taking effect May 18, 1892, section 638 and section 654 as amended by chapter 186 of the Laws of 1892, taking effect September 1, 1892, read respectively as follows:

"Sect. 635. *Injuries to railroad tracks, et cetera.*—A person who:

1. Displaces, removes, injures or destroys any rail, sleeper, switch, bridge, viaduct, culvert, embankment or structure, or any part thereof attached, appertaining to or connected with any railway, whether operated by steam, horses, or other motive power; or,

2. Places any obstruction upon the track of any such railway; or,

3. Wilfully destroys or breaks any guard erected or maintained by a railroad corporation as a warning signal for the protection of its employees; or,

4. Wilfully discharges a loaded firearm, or projects or throws a stone or other missile at a railway train, or at a locomotive, car or vehicle standing or moving upon a railway; or,

5. Wilfully displaces, removes, cuts, injures or destroys any wire, insulator, pole, dynamo, motor, locomotive, or any part thereof, attached, appertaining to or connected with any railway operated by electricity, or wilfully interferes with, or interrupts any motive power used in running such road, or wilfully places any obstruction upon the track of such railroad, or wilfully discharges a loaded firearm, or projects or throws a stone or any other missile at such railway train or locomotive, car or vehicle, standing or moving upon such railway; is punishable as follows:

1. If thereby the safety of any person is endangered, by imprisonment for not more than ten years.

2. In every other case, by imprisonment for not more than three years or by a fine of not more than two hundred and fifty dollars, or both."

"Sect. 638. *Altering, etc., signal or light for vessel, etc.*—A person who, with intent to bring a vessel, railway engine, or railway train into danger, either,

1. Unlawfully or wrongfully shows, masks, extinguishes, alters, or removes a light or other signal; or,

2. Exhibits any false light or signal;

Is punishable by imprisonment for more than ten years."

"Sect. 654. A person who unlawfully and wilfully destroys or injures any real or personal property of another or who without authority or permission from a person who has the right to give such authority or permission, loosens any brake or blocking of any car standing on any railroad track in this State, or without like authority or permission, puts upon or runs any handcar, or other car, on any railroad track in this State, or without like authority or permission, interferes or meddles with any brake or coupling of any car while standing or moving on any railroad track in this State, or takes any part therein, in a case where the punishment is not specially prescribed by statute, is punishable as follows

1. If the value of the property destroyed, or the diminution in the value of the property by the injury is more than twenty-five dollars, by imprisonment for not more than four years.

2. In any other case by imprisonment for not more than six months, or by a fine of not more than two hundred and fifty dollars, or by both such fine and imprisonment.

3. And in addition to the punishment prescribed therefor, he is liable in treble damages for the injury done, to be recovered in a civil action by the owner of such property, or the public officer having charge thereof."

I warn all persons engaged in the violation of the above law to desist therefrom, and I call upon all Sheriffs, Magistrates, District Attorneys and other civil officers, and upon all good citizens, to aid in the enforcement of the said law and in the punishment of all criminals who are guilty of its violation.

I hereby offer a reward of One Hundred Dollars to be paid upon the arrest and conviction of each person who shall during the next ninety days violate any of the provisions of the said sections of the Penal Code, relating to steam railroads.

The failure or omission of any sheriff, district attorney or other civil officer to take the most active steps in his power to enforce the said provisions of the Penal Code will be considered sufficient cause for his removal.

Done at the Capitol in the city of Albany, this twenty-
[L. S.] fourth day of August in the year one thousand
eight hundred and ninety-two.

By the Governor: ROSWELL P. FLOWER.

T. S. WILLIAMS,
Private Secretary.

WITHDRAWAL OF THE TROOPS.

SHERIFF'S OFFICE OF ERIE COUNTY.

BUFFALO, N. Y., *August 25, 1892.*

Hon. ROSWELL P. FLOWER, *Governor, State of New York :*

DEAR SIR.—I have requested Adj.-General Porter to withdraw the troops here under his command as the necessity for their presence has ceased.

I desire on behalf of our citizens to express to you their thanks (as well as my own) for the prompt response to the call for the National Guard of the State.

Your proclamation was timely and I believe had its good effect in the settlement of the disturbances.

Yours respectfully,

AUGUST BECK,

Sheriff.

PURCHASE OF FIRE ISLAND.

OFFICIAL CORRESPONDENCE RELATING THERE TO.

APPLICATION OF THE HEALTH OFFICER.

QUARANTINE, S. I., *Sept. 8, 1892.*

ROSWELL P. FLOWER, *Governor.*

Mr. Pierpont Morgan has placed his steamer "Stonington" at my service. I have accepted, but that means detention on the water as they are now being detained, although on a clean ship. It would be much better if we could secure Fire Island, where there is a hotel which will accommodate four or five hundred people, and the island itself could be used for the establishment of barracks. Can you give me the power to take possession of this island? The conditions are very serious.

W. T. JENKINS,
Health Officer.

THE GOVERNOR'S AUTHORIZATION OF PURCHASE.

ALBANY, *Sept. 9, 1892.*

W. T. JENKINS, *Health Officer, Quarantine, N. Y.:*

You may purchase or rent necessary land or buildings on Fire Island for quarantine purposes. Do not hesitate to do all that is needed to meet the emergency and to make the passengers as comfortable as possible.

ROSWELL P. FLOWER.

TERMS OF PURCHASE.

NEW YORK, *Sept. 9, 1892.*

Gov. R. P. FLOWER, *Executive Mansion, Albany, N. Y.:*

Owner of Fire Island asks two hundred and ten thousand for land comprising one hundred and twenty-five acres, hotel, nine cottages all furnished complete including steamer that cost \$35,000. Competent judges inform me the

whole outfit is worth actually about one hundred and seventy-five thousand dollars. The situation is sad and serious and delay awfully dangerous. Telegraph me at Hoffman House where I am waiting your approval, and in such a way as the owner Mr. Sammis will require, in order that I may have the place at once if you approve.

W. T. JENKINS.

THE TERMS ACCEPTED.

Sept. 9, 1892.

Dr. W. T. JENKINS, *Health Officer, Hoffman House, New York City:*

You are authorized to purchase Fire Island for amount you mention (two hundred ten thousand dollars). Take immediate possession and do all you can to relieve the distress and save the city and country from the scourge.

ROSWELL P. FLOWER.

DEMAND FOR CASH PAYMENT.

NEW YORK, Sept. 10, 1892.

Hon. R. P. FLOWER, *Syracuse, N. Y.:*

David S. Sammis, owner of Fire Island, will give me immediate possession, but requires payment of \$50,000 cash before passengers land; also that the balance of purchase money, \$160,000, shall be paid within six months. Do you wish me to advance this and authorize me to act? The \$50,000 I will hold until passengers are landed on Fire Island. Answer me at Hoffman House.

W. T. JENKINS.

GOVERNOR'S ADVANCE OF \$50,000.

SYRACUSE, N. Y., Sept. 10, 1892.

W. T. JENKINS, *Hoffman House, New York:*

Agree to his terms and draw on Flower & Co., for \$50,000 cash. I will be responsible for the balance within six months. Engage a lawyer and see that the title is proper.

ROSWELL P. FLOWER.

DR. JENKINS' ACKNOWLEDGMENT.

NEW YORK, Sept. 10, 1892.

Hon. R. P. FLOWER, *Syracuse, N. Y.:*

God bless you for one of the noblest acts of your life, which will relieve untold suffering. The people of the United States will applaud your acts and the State of New York, through its chosen representatives, will hasten to return you the money you have so generously advanced in this emergency.

W. T. JENKINS.

CONTRACT FOR PURCHASE.

Agreement, made the 10th day of September in the year one thousand, eight hundred and ninety-two, between David S. S. Sammis of the town of Islip, county of Suffolk and State of New York, party of the first part, and Roswell P. Flower of the city and State of New York, party of the second part, in manner following:

The party of the first part, in consideration of the sum of two hundred and ten thousand (\$210,000) dollars, to be fully paid as hereinafter mentioned hereby agrees to sell unto the said party of the second part, all those certain tracts, pieces or parcels of land lying or being in the towns of Brookhaven and Islip, county of Suffolk and State of New York, being plot No. 1, as laid out to David S. S. Sammis on a map entitled "map of partition of the Great South Beach in the towns of Brookhaven and Islip, Long Island, made by Johnathan Sammis, surveyor, A. D. 1878, all in accordance with an order made by the Hon. J. O. Dykman, justice, and filed in the clerk's office of Suffolk county, State of New York, Sept. 18, 1878," less a tract or strip of land running from the Atlantic ocean to the Great South bay and bounded on the west by a line parallel with the western line of property now or lately of Benjamin Sire & Co., so placed, surveyed and located as to leave in said plot No. 1, after deducting the aforesaid tract or strip, one hundred and twenty-five acres, the subject of this conveyance, which is bounded and described as follows: Beginning at the southwest corner thereof at the Atlantic ocean and southeast corner of land owned or occupied by the United States government, thence running by lands last mentioned, north five (5) degrees and twenty minutes west to the Great South bay, thence eastwardly along said bay to a point from which a line running parallel with the westerly line of land of Benjamin Sire & Co., and southerly to the Atlantic ocean to a point, will inclose and contain with the Atlantic ocean as its southern boundary, one hundred and twenty-five acres and thence westerly and along the Atlantic ocean to the place or point of beginning, together with all the rights, easements, claims or demands, land under water and natural or artificial increments or additions, wharves, piers, tenements and hereditaments thereunto belonging and all the furniture, goods and chattels, utensils, steam or other boats, ornaments now in or about the above described property, except personal property in the building known as the "Coudert cottage." (2) Also that other tract, piece or parcel of land, lying under the waters of Sampawms creek, near the Great South bay in the town of Huntington, Suffolk county, New York, containing about sixteen thousand one hundred square feet, as granted October 17th, 1865, by the people of the State of New York by letters patent to James H. Carll and Martin Willets. And the party of the first part further agrees that if the building called the "annexed" shall prove on survey to be outside of the tract of one hundred and twenty-five acres hereinbefore described, that he will execute a further conveyance of a tract of land of one acre in extent, on which such house stands and a full right of way for the complete enjoyment of the same. And the said party of the second part

hereby agrees to purchase at the consideration of two hundred and ten thousand dollars (\$210,000), and to pay the same as follows: Fifty thousand (50,000) dollars on the signing of these presents, and one hundred and sixty thousand (160,000) dollars without interest on the latter sum, to be paid on the 10th day of March, 1893.

And the said party of the first part on receiving such payments at the time and in the manner above mentioned, shall at his own proper cost and expense, execute, acknowledge and deliver to the said party of the second part or to his assigns, a proper deed, containing a general warranty and the usual full covenants for the conveying and assuring to him or them the fee simple of the said premises free from all incumbrance of every name, nature and description and in the meantime and until the delivery of the said deed, the party of the second part is to have the sole use and enjoyment of the above described premises and the chattels and furniture and appurtenances connected therewith without rent, charge or demand from the party of the first part, which deed shall conform to the requirements of chapter 475, Laws of 1890, of the State of New York, relating to deeds as far as the same is applicable thereto, which deed shall be delivered on the tenth day of March, 1893, at twelve o'clock noon, at the office of Edward R. Johnes, 50 Broadway, New York city, but it is expressly understood and agreed that the conveyance of the dock property in the town of Babylon being tract number two of sixteen thousand one hundred square feet shall be solely an assignment of the rights of the party of the first part in the patent granting said dock property and in the improvements thereon. It is further agreed that tract No. 1 of one hundred and twenty-five acres is accepted by the party of the second part subject to a lease to the Western Union Telegraph Company of seventy-five feet square and of a lease of the plot of land forty feet front occupied by the so-called Coudert cottage. In case of destruction by fire of any of the buildings on the above-described properties the party of the first part is to collect the insurance money and apply the same in reduction of the balance of one hundred and sixty thousand (160,000) dollars still remaining due on the within contract.

And it is understood that the stipulations aforesaid are to apply to and bind the heirs, executors, administrators and assigns of the respective parties.

In witness whereof the parties to these presents have hereunto set their hands and seals the day and year first above written.

[L. s.]

DAVID S. S. SAMMIS.

Sealed and delivered in the presence of THOMAS H. BULLICK.

[L. s.]

ROSWELL P. FLOWER.

By C. G. WILSON, *Attorney in Fact*.

STATE OF NEW YORK, } ss.:
County of New York,

On the twelfth day of September, in the year one thousand eight hundred and ninety-two before me personally came David S. S. Sammis and Charles G. Wilson the attorney in fact of Roswell P. Flower to me known, and known to me to be the individuals described in and who executed the foregoing instrument and severally to me duly acknowledged that they executed the same

and the said Charles G. Wilson acknowledged to me that he executed the same as the attorney in fact for said Roswell P. Flower, the party in said instrument of the second part.

THOMAS H. BULLICK, *Notary Public, Kings county, N. Y.*
Certificate filed in New York county.

PROCLAMATION.

For the relief and protection of the passengers on board the cholera-infected vessels now quarantined in the port of New York, I have caused to be purchased on behalf of the State certain property at Fire Island, in the county of Suffolk. The State through its officers has taken possession of said property, and passengers from the infected vessels are to be transported thither without delay.

In spite of this official action by State authority it is represented in the public press that citizens of Suffolk county are preparing forcibly to resist the landing of said passengers or the use of the State's property for purposes of quarantine, and have already, through local officers and citizens, made hostile demonstration to that end.

I, therefore, direct the Sheriff of Suffolk county to use all his powers to resist any attempted interference with the lawful exercise of State authority in taking possession of said property, and I command him to see that the said property is properly guarded against all violence and that the quarantine officers are amply protected in the discharge of their duty.

I also warn all persons against illegal interference with the use of Fire Island as a quarantine station, and I direct all peace officers of the county to enforce obedience to the laws and compel respect for State authority.

Failure to comply with the injunctions of this proclamation will be considered sufficient cause for removal from office.

Done in the city of New York this twelfth day of September, in the year eighteen hundred and ninety-two.

ROSWELL P. FLOWER,
Governor.

By the Governor :

T. S. WILLIAMS,
Private Secretary.

PUBLIC ADDRESSES.

GOVERNOR FLOWER'S REMARKS AT THE UNVEILING OF THE SOLDIERS' MONUMENT AT ROCHESTER, ON DECORATION DAY, 1892.

FELLOW CITIZENS — The ceremonies which you have just witnessed, and the words of patriotism which have been spoken need no additional utterance of mine to emphasize the solemnity and significance of this occasion. The unveiling of this monument, attracting hither, as it has, the President of the United States and members of his Cabinet, others of high official rank and a great concourse of citizens, is but one manifestation of that deep-seated feeling of obligation which our country cherishes toward the noble defenders of the Union. No soldiers ever fought in a juster cause. To their patriotism and bravery our reunited country owes its present prosperity and general happiness. To-day, in every part of this broad land, a tribute of praise goes out from every heart toward those whose lives were consecrated to the preservation of the Union.

It is a day for recalling sad memories — but those memories of the past, thank Heaven, are no longer tinged with bitterness. The same green sod covers the grave of Union soldier and Confederate soldier, and the firm texture which nature has woven over the dead bodies of those who were once in mortal conflict is symbolic of that close feeling of affection and sympathy

which now binds together the people of North and South, and forgets, in one common, fraternal and patriotic impulse, the wrongs and injuries of days gone by.

The monuments which we erect to our dead heroes are not merely enduring reminders of worthy deeds in a patriotic cause — not commemorative merely of battles and the passions of war,—they represent the earnest patriotism of the people, and as long as they stand they will ever be an inspiration to love of country — silent guardians and defenders of our liberties still. The impulses of patriotism which such occasions as these quicken make better citizens of us all, and suggest the obligation which we owe to those who made our present prosperity possible. Let us be inspired to guard jealously that liberty and union which their sacrifice secured. New perils confront our country; let us meet them with equal devotion to our country's best interests. Let us thoroughly educate each new generation in the principles of American institutions. Let us widen the influence of our common schools, and make each school-house a nursery for patriots. In the citizenship which grows out of such an environment will be found a constant standing army of Union defenders — ready at all times to protect our land from the dangers or dissensions which may threaten her peace or progress.

REMARKS OF GOVERNOR FLOWER TO THE CITI-
ZENS OF MALONE, AUGUST 27, 1892.

MR. CHAIRMAN AND FELLOW CITIZENS OF MALONE:

I did not stop here to make a speech, but I must thank you for the kind welcome of your people. I hear that yesterday you honored the President, and I see by the beautiful decorations upon your buildings that you have shown him that loyalty and respect which is due from the people to their Federal chief. As he well said to you, this is a great country. The Americans began their furrow at the Atlantic and turned it in the Pacific. I have left this northern section in the early spring when you were sowing barley, and a week after have seen them harvesting it upon the Pacific slope. The sources of wealth in this country are boundless. We can hardly realize how great is the capacity for inland navigation and commerce. Holding within its boundaries 35,000 miles of navigable waters east of the Rocky Mountains, it is girded with 170,000 miles of railroad and half of the gold and silver of the world. It is wonderful in extent and great in its richness. To preserve this country is the duty of every American citizen. The American people should see to it that every emigrant to our shores once admitted, should be assimilated with our own population and be taught the rudiments of our form of government; in other words, that he should be Americanized, and when he is Americanized he will appreciate a free government and common schools. He will learn to respect the rights of others; he will do that which every good citizen is doing; he will contribute his individual efforts to uphold

the law of the State and preserve its peace, and, with its peace, its prosperity and happiness.

I have traveled in every State of this Union and have seen all the famous scenery of the West, but the State of New York, both in the diversity of her scenery and its beauty, out-ranks them all. The cities and villages of New York, with more than 22,000 manufactories, are constantly growing, while the farming communities are suffering from a decimation of inhabitants. This is a problem that the farmer must meet and solve for himself. He must find crops to raise on his high-priced land other than those which compete with products of the cheap farm land of the West. He must search the markets of our cities and towns, and find what they want in the way of butter and cheese and different edibles and learn to raise them and cater for the tastes of a home market. He must not permit the French, or English, or Canadian farmer to sell cheese in New York and our large cities at 25 cents a pound, while he is selling at 8 cents in England. He must produce a better product.

I have started for the Adirondack region, as you all know. There was some legislation on the subject of the Adirondacks last winter at Albany. If the State of New York can prudently provide for the saving of this Adirondack region, and preserve the sources of the waterways of the State and thereby keep the rainfall about the average, it will have promoted the conditions assuring good crops every year, and have done something that Mexico and Italy, with their denuded mountains, have failed to accomplish. With this proper care of the Adirondacks will come increased railroad facilities, thereby increasing the wealth of the northern section, and more important still, the public health will be conserved, for right here at your doors at Saranac Lake is a locality where the records of benefit in cases of lung trouble

are equalled by those of only one other place in the country—that is Colorado Springs—and that does not surpass it. At Saranac Lake 53 per cent. of all cases are helped, and in 27 per cent. absolute cures are effected. I suppose that it is this healthfulness of your country that makes your people so stalwart in person and in their ideas. I am going to this wilderness for a few days of pleasure and rest and to study it, hoping that some system may be devised that will preserve it while permitting its ripe timber to be cut, so that out of it may be assured, to you and to all the people, the full benefit that a wise conservation of the region will supply.

GOVERNOR FLOWER'S REMARKS AT AN AGRICULTURAL FAIR IN POTSDAM, SEPTEMBER 7, 1892.

[From the Watertown Reunion Report.]

MR. PRESIDENT, LADIES AND GENTLEMEN:

Ever since I arrived in your beautiful town, Senator Erwin, Judge Tappan and the other members of your committee have complained that they did not have notice that I was coming or they would have filled the fair grounds with people, little dreaming that the vast crowd now before me, augmented by as many as they hoped to have, would make any Democrat feel timid.

The platform they put me on is a little shaky for a man of my weight, but I am not alarmed, because any platform arranged by the Republican party in this county has considerable strength, for it generally receives an indorsement of eight or ten thousand majority. [Applause.]

You have a beautiful country and beautiful climate, and I am glad that the President of the United States has taken his sick wife up in this region, for, according to the statistics, it is the most health-giving climate in the world. Twenty-seven per cent. of the patients at Saranac village were permanently cured of pulmonary disease and 53 per cent. were helped. There never has been another record like that. When I look at your past political record I do not wonder that your country produces stalwart politicians. I feel highly honored here in Potsdam, at meeting with such an unexpected reception from my once political opponents.

When the President or the Governor is running for office, you have a right to say any thing you please about him, but once elected he is our President or our Governor. [Applause.] Senator Erwin has alluded to some action of mine. I claim no credit for it. I simply did my duty. When we, as citizens, have learned to respect the rights of others, we have taken the first step toward peace, prosperity and happiness. [Applause.]

This is a great State, and when you are in any other, you think you are a good ways from home. No farmer present has ever seen a total failure of crops in the State of New York.

This is the greatest country the world has ever known. Our forefathers boldly declared for the equal rights of man and freely shed their blood that civil and religious liberty might be guaranteed to every American citizen. This has furnished the stimulus that has peculiarized Americans and that has awakened our genius, led them to discover new elements and invent machinery, until to-day America, the wide world over, is synonymous with progress. [Applause.]

When the independence was won, the American, standing erect in the image of the Maker with no one to look up to except his God, dropped the gun and took up the axe and commenced to hew his way across a continent. When he felled the trees he smote the earth and discovered 300,000 miles of coal. He smote again and found rivers of light and fire for the home. He smote again and the diminishing supply was augmented by natural gas. He smote again and rivers of salt came at his bid. He smote again and half the silver and gold of the world rewarded his effort. He smote again and iron was found to span a continent. He tapped the clouds and electricity was the result, conveying our thoughts around the world, making it our errand boy, furnishing a motor and turning night into day. [Applause.]

You have already awakened to the necessity of preserving the young timber of your forests. Do not overlook the fact that your lands are also threatened with being denuded of your young men. To succeed in this farming country you must keep your young men at home and instruct their minds to activity that they may learn to devise new methods of agriculture to meet the growing demand of our own home markets. I have returned from the Adirondacks and have killed my deer. I am entitled to one more and I expect very soon to come again and kill it. I have seen the woods and the mountains in their immense extent. The problem of saving this life-giving region to your children and your children's children is a question to be solved in the future. This country will go on improving as long as you teach the rudiments of our government in the common schools and bring up all the children of the land imbued with the spirit of our form of government, and it will remain as firm as the rocks upon which our continent rests, firm and enduring. [Applause.]

MODERN AGRICULTURE.

GOVERNOR FLOWER'S ADDRESS AT THE STATE FAIR, SYRACUSE, SEPTEMBER 10, 1892.

Mr. CHAIRMAN AND FELLOW CITIZENS:

I shall not detain you by a long discourse at a time when most of you are here for sight-seeing, not for listening, but I believe it is generally expected of a Governor, at least once a year, to tell the people what he knows about farming, and I have no desire either to disappoint popular expectation or to ignore an official obligation. When I reflect, however, on the reams of bucolic wisdom which my distinguished predecessors have inflicted upon the farmers of the State, and am confronted with the fact that agricultural depression still exists, I am forced to the conclusion that all this executive learning has been wasted on the rural air, or else has been one of the causes of agricultural distress. In either case the effect is disheartening. Before I became Governor I used to think I knew something about farming, and some of my newspaper friends have even dubbed me "Farmer Flower," but this summer, as dozens of invitations to address county fairs have come to me, I have been reminded that there never was a Governor who didn't have some sure cure for all agricultural troubles, and I began to feel conscience stricken at my helplessness and infirmity. So it is with considerable diffidence that I attempt to comply with the request of the State Agricultural Society to deliver an address upon this occasion. I shall endeavor chiefly to pre-

sent some significant facts, my friends, not panaceas, except panaceas which the statement of facts may suggest. And if I supplement my facts with a few suggestions which seem to me pertinent, please do not attribute them to superior gubernatorial theory, but to the observations and experience of a practical business man, whose early life was passed on a farm, and whose best friendships and acquaintances have always been among farmers.

When we discuss the subject of agriculture we touch a subject which concerns very vitally every person in the country. Sixty-five millions of people, increasing at the rate of thirty per cent. a decade, must be fed from the products of the land. That enormous task must give occupation to millions of men, must need an investment of billions of money, and, as competition becomes rife, must require great intelligence and the closest economy to be profitably performed. The most honorable of occupations, and one upon which nearly half the population depends for direct support, its pursuit affects materially the prosperity of the whole people. Good crops and good prices stimulate all kinds of business and interest all classes of citizens. Even commerce, vast as its volume has now become, is, as Jefferson said, merely the handmaid of agriculture. Three-quarters of all our exports are of agricultural products, and our enormous inland carrying trade depends for its daily life on its service for the farm.

But in recent years the conditions of agricultural competition have radically changed, and this enormous body of citizens engaged in tilling the soil are suffering the evils of serious depression in markets and prices. The time has long since passed when we could say as Virgil said two thousand years ago:

“Nor is the profit small the farmer makes,
Who smooths with harrows or who pounds with rakes.”

What has brought about this depression it is not my purpose to discuss. It may be over-production, resulting from the opening of millions of new acres; it may be too high a tariff; it may be the demonetization of silver; it may be a hundred other causes. For my purpose to-day it is sufficient merely to mention the fact, without attempting an explanation. I speak of it as a general condition throughout the country, and because it leads directly to what I wish to discuss more in detail—namely, the existing agricultural conditions in our own State.

This general depression throughout the country is directly connected with the production and consumption of the two great cereals, corn and wheat; and as these two grains form the principal crops of most of our farmers in New York State, there is the same complaint and distress here as elsewhere. Probably there is more, for it is much harder to endure low returns from lands whose value is constantly depreciating than it is from lands that are all the time growing more valuable, as in the West. Our farmers are poor and discontented. Their boys and girls are leaving the farms for the towns and cities. Distress is everywhere too prevalent. Even the lowest taxes of a generation, such as our State has enjoyed during the last two years, bear heavily on the farmer, and, with the interest charges on his mortgaged lands, eat up the small profit there may be in his crops.

The moral has been pointed so often that it has become stale truth. From Montauk Point to Niagara Falls the New York farmer has been told again and again that he should cease trying to raise corn and wheat against the competition of the cheap lands and broad fields of the West, and devote his energies to products more suited to his high-priced lands and his proximity to good markets.

Yet it is a startling fact that to-day practically the same number of acres is devoted to raising corn and wheat in this

State as was devoted to that purpose twenty-five years ago. The first crops the average farmer thinks of raising now are corn and wheat — just as he did when we were boys, a generation ago. About 1,400,000 acres, year after year, without much variation, are given up to these two staple crops.

Apply to this condition of things the ordinary test which every business man applies to branches of his trade, namely, "does it pay?" and what is the result? We find that our high-priced lands, which yielded over \$23 an acre in corn on an average from 1870 to 1880, only yielded \$18 an acre from 1880 to 1890, and the tendency is still downward, while the average value of the yield on the low-priced lands in the great corn States of Iowa, Missouri and Illinois remained about the same during the last decade that it was during the preceding decade. The average value of our wheat yield fell a corresponding amount from \$20 an acre between 1870 and 1880 to \$15 an acre between 1880 and 1890. In the meanwhile the steady reduction in freight rates, by which the great grain fields of the West and Northwest have been brought nearer the seaboard, has been wiping out the margin of advantage which our farmers once enjoyed, and their high-priced lands are brought into still closer competition with the cheaper lands of the West. If ten years ago a New York farmer had sold his farm of 100 acres at the average value of farms in this State, and had gone to Nebraska and invested the amount in corn lands of that State, his average annual yield of corn during the last ten years would have been 9,600 bushels. If he had remained in this State his average yield would have been only 2,900 bushels. And during his ten years in Nebraska his property would probably have risen in value at least 100 per cent., instead of still further depreciating, as his farm would had he remained here. Do not infer from this that I am advising our farmers to go to Nebraska or to any other Western State, for I believe

they can be better off here, and the apparent advantage which the Nebraska farmer has in these statistics is not so great when the home value of his product is taken into account. But I cite them to show the sort of competition which the New York State farmer has to face, and to discourage him, if possible, from continuing this losing contest when he has a free field practically all to himself if he would devote his land to other crops than corn and wheat.

We are a little empire by ourselves in this State. Our area covers nearly 50,000 square miles—a surface unequalled for diversification and beauty. We have a healthful and productive climate. Our rainfall is uniform and abundant. Stored as a large part of it is in the bosom of a mighty forest, it yields from its abundance throughout the year to irrigate our soils and to supply our water channels of communication. Our lands are fertile, our farms accessible. And with these natural advantages we have a population of six and a-half millions, increasing at a rate of a hundred thousand a year, which must be clothed and *fed*.

To feed this great and rapidly-increasing population, catering to its infinite variety of tastes and its constantly multiplying wants, would alone make our 250,000 farmers happy and well-to-do if they would only undertake the job with thoroughness and intelligence. But let us at the start leave to our sister States the task of supplying our people with those articles of food which they can produce more cheaply, and let us devote all our energies to supplying our people with those more profitable agricultural products for which our farmers have a ready market at their very doors, for many of which we now have to look to other States and other countries, and in some of which our natural advantages permit us to command the markets of the world.

That tendency, I am proud to say, has already set in. It has progressed in spite of the fact that the majority of our

farmers still raise chiefly corn and wheat, and in spite of the fact that the same number of acres is devoted to their production as was devoted to it a quarter of a century ago. Greater, then, is the measure of its praise. We overlook, some of us, in the rapid development of industrial and commercial life within our borders and in the segregation of people in cities, what an important part this partial departure from traditional methods and customs has enabled the farmers of New York to play in our own prosperity and in our pre-eminence among the States. Restricting our observation to the great areas devoted to unremunerative cereals, we are inclined to look upon agriculture here as a waning occupation, giving employment to fewer men than formerly, not adding greatly to the State's wealth, and ranking low in production. The facts are worth calling attention to for the correction of this impression, and for the purpose of indicating the line along which agricultural development in this State lies.

There were more farms and more farmers in this State in 1880 than in any other State in the Union, save Illinois and Ohio.

There was more improved farm land than in any other State, except Illinois, Iowa and Ohio.

The value of our farm lands was greater than that of the farm lands of any other State, except Ohio.

The value of all our farm products was greater than that of any other State, except Illinois.

We raised more hay than any other State in the Union.

We raised more hops than any other State.

The value of our orchard products was nearly twice that of any other State.

We raised twice as many potatoes as any other State.

We raised more buckwheat than any other State. We stood second in the production of barley. We stood third in the production of rye.

We produced five times as much milk as any other State, and nearly half as much as was produced in the whole country.

We made 30,000,000 more pounds of butter than any other State, and we made nearly four times as much cheese.

The returns of the census of 1890 may make necessary some modification in these statements, but I am sure we have not gone backward during the last ten years. In the face of such a record, who will deny our possibilities in variety and scope of agricultural products? With the prestige of such a position, who shall say that farming in the Empire State is a waning occupation, and advise farmers' sons to go West, where conditions are more favorable for agricultural prosperity?

Yet we are but on the threshold of agricultural development.

It has seemed to me that the facts which I have presented above are particularly suggestive in the discussion of a remedy for this present agricultural depression. They clearly show that whatever place New York has among the States in agriculture is due to the attempt to adapt its high-priced lands to those wants of the people which they can best supply. In the production of the staple cereals, corn and wheat, we are away behind other States, and cannot compete with them successfully even for the entire home consumption; but in the production of other crops, of fruits, of butter and cheese, etc., we can excel them all, because of our natural advantages and our proximity to good markets.

When the New York farmer plants wheat he gets on an average a yield worth \$15 an acre. When he plants corn he gets a yield of about \$18 an acre. Oats yield about \$11 an acre, and barley nearly \$17. When he plants rye he gets a yield of about \$8.50 an acre, and so on. But what miserable returns for labor are these crops when more intelligent effort and more business-like farming could make the same land immeasurably more profitable.

Thirty years ago farmers in this State began to break away from old-fashioned methods of individual butter and cheese making, and established the modern system of associated dairying. Note the result. In 1860 the annual product of milk in this State, not including what was used on farms, was 365,000,000 gallons. In 1870 it had increased to 483,000,000 gallons; in 1880 to 576,000,000 gallons, and in 1890 it was estimated at over 700,000,000 gallons. During this period the increase in production from year to year has been much faster than the increase in number of cows, showing conclusively the effect of intelligent effort to increase the yield by careful attention to breeding and feed. For instance, the average yield per cow in 1860 was 325 gallons, while in 1880 it had crept up to 401 gallons, and is now probably considerably higher. New York leads all other States in the amount and value of her dairy products, yet I believe there are greater possibilities still before her, and greater profits to the dairy farmer if he will apply to his occupation, skill and scientific methods, and study to satisfy that increasing demand, especially in our own State, for the finer and more remunerative qualities of butter and cheese. I know a farmer in Monroe county who is making fifteen per cent. per annum on land worth \$200 per acre by making a grade of butter which sells for 50 cents a pound, and in some New York city hotels is preferred to the famous Darlington butter, which formerly cost one dollar a pound. The price of the best New York butter, quoted by one of the leading grocers in New York city, is only 30 cents a pound, while butter quoted at 65 cents a pound comes from another State. I know of no reason why New York dairymen should not have the advantage of satisfying these expensive tastes of our urban population.

With cheese it is the same as with butter. The great bulk of our cheese is low-priced, competing with the world's mar-

kets in London, and bringing less than 10 cents a pound. Yet I hold in my hand a price-list furnished me by one of the leading firms of grocers in New York city, which shows that practically all the higher-priced cheeses are made outside our borders. Here is the list :

Mild cheese, (Oneida and Jefferson counties, N. Y.,) 14 cents per pound.

Young American, (N. Y. State,) 18 cents per pound.

English dairy cheese, (Otsego county, N. Y.,) 25 cents.

Pineapple cheese, (Goshen, Conn.,) 55 and 90 cents each.

Edam cheese, (Holland,) \$1 each.

Roquefort cheese, (France,) 40 cents per pound.

Parmesan cheese, (Italy,) 40 cents per pound.

Gruyere cheese, (Switzerland,) 30 cents per pound.

Stilton cheese, (England,) 45 cents per pound.

Cheddar cheese, (England,) 30 cents per pound.

It will not do to say that these cheeses cannot be profitably made in this country and in this State. Here and there through the State successful work is being done in this direction. I know a woman in the county of Jefferson who earns a splendid income by selling at the best New York restaurants French cheeses, which she learned how to manufacture by sending her son to France to study the process. That woman's energy and good sense deserve emulation by her masculine neighbors. Our farmers cannot all send their sons abroad to learn cheese-making, I know, but we have in this State a splendid nucleus for such instruction in the Experiment Station at Geneva, in the agricultural department of Cornell University, and in the perambulating dairy schools, for which our Legislature has recently provided.

There seems no reason why the United States should import eight or nine million pounds of cheese every year, when, by well-directed efforts, our own farmers could get this market.

Another promising yield for agricultural enterprise is truck farming and vegetable gardening. This is a new industry, comparatively; that is, it is beginning for the first time in our country to assume large proportions. It has sprung up and flourishes because of the rapid growth of our cities. For the first time it has been made a special subject of inquiry by the statisticians of the census bureau. Their figures included only truck farming, and must necessarily be deficient, yet they show over half a million acres devoted to this use in the United States in 1890, with an annual yield of \$76,000,000 in value. There is reason for believing that this is largely underestimated, but it gives some idea of the proportions of this branch of farming, and if the value of the products of vegetable gardening were included the total amount would undoubtedly be very large. The most valuable part of the census bureau's figures is the estimated net income per acre on leading varieties of vegetables. In New York State asparagus is said to net \$183 per acre, beets \$150, celery \$214, cabbage \$133, water-melons \$81, other melons \$158, peas \$67, sweet potatoes \$75, spinach \$80, and tomatoes \$165. When we reflect that wheat production averages only \$15 an acre, and corn \$18, the comparative profit in these other kinds of production is enormously attractive. There are tens of thousands of acres in the vicinity of our large cities which could make their owners rich by intelligent vegetable farming.

Fruit growing can also be made a source of great wealth to our State. We have the best natural advantages for raising certain kinds of fruit, and the best markets in the western continent. No better apples, no better peaches, no better berries, hardly any better grapes, are grown anywhere than those raised in New York. Less than fifty years ago a fruit grower near Keuka Lake broke the New York market by a shipment of 300 pounds of grapes. In 1890 there were shipped from this

same part of the State 40,000,000 pounds, and from the whole State 98,000,000 pounds. We lead every State in the Union, except California, in the production of grapes, and the average market value of our crop in 1889 was four times as much per ton as that of California's yield. The grape industry in New York now covers over 40,000 acres, and the value of its product in 1889 was about five and one-half millions of dollars, or over \$122 per acre—a pecuniary return equal to five-eighths the value of our wheat crop for that year, which covered fifteen times as many acres. The extensive cultivation of peaches is but yet in its infancy, and the value per acre of average yield two years ago was upwards of \$150. In small fruits there is even more money. A well-informed writer, basing his judgment upon his own experience, estimates that with proper culture strawberries can be made to yield \$320 an acre, or a net profit of \$150; raspberries \$300 an acre, with about the same net profit; and currants \$120 an acre, but with greater proportionate net profit than either strawberries or raspberries. The popular taste for fruits of all kinds for ordinary diet is growing much faster than the population, and the consumption of our cities is increasing at an astounding rate.

Poultry farming presents great opportunities also. The consumption of poultry products in the country has been increasing more rapidly than that of corn and wheat. Their value in 1882 was \$560,000,000—greater by \$100,000,000 than the value of the wheat product, and more than two-thirds the value of the corn product. The consumptive capacity is unlimited.

As a branch of rural industry bee-culture is one of the most important, and can be carried on as an adjunct to the farm at very little cost. I have seen it stated that there are 25,000 bee-keepers in this State alone. The annual honey product of the entire country is estimated at one hundred million pounds.

Nobody appreciates more fully than do I the difficulties which stand in the way of the farmer's surrendering old agricultural traditions and methods, taking up with modern methods and adapting himself and his energies to modern conditions. There is no more conservative class of citizens than the farmers. The paths that he is accustomed to are the paths he prefers to trod. Yet agricultural progress during half a century has been very marked. It is within my life-time it could be said of a New England farmer that he moved his barn to avoid the accumulating pile of manure. During that time the system of fertilization and rotation of crops has come into general use. The breeding of stock is even a later development. Diversification in agricultural effort comes slowly, but is making steady headway. Agricultural economy, in the broader sense of the term, is yet too much unknown, and can only come through the application of more business-like methods to ordinary farm work. There never was a time in the history of this State when there were greater incentives for an awakening among our farmers. There was never a time when science and intelligence stood ready to open the door to so broad a vista of agricultural effort. There never was a time when there were so many people to feed, so many tastes to gratify, or so liberal a disposition to purchase. What were luxuries fifty years ago are necessities now. Vegetables that were discarded as worthless then yield millions of dollars now. Fruits that found consumers then only among a limited few who were able to buy are almost a staple article of diet now. The steady accumulation of wealth and its wider distribution create demands that offer an unlimited variety and scope of effort to satisfy. As I said at the beginning of these remarks, six and one-half million people in this State alone must be *fed*. At our eastern gateway is the largest city of the continent — the port through which passes half of our country's foreign com-

merce—the center of a population of nearly three millions within a radius of a few miles. At the western gateway is a bustling, progressive city of 300,000 people. Along the highway of commerce between Buffalo and New York are other growing centers of population and industry, and scattered everywhere through the State are towns and villages, whose inhabitants must be fed by the producers at their own doors. The tendency of population is toward fewer people on the farms and in agricultural communities and larger segregations in the cities. The increase of a million inhabitants since 1880 means that many added to the urban population. The fact of this ever-increasing population should stimulate agriculture and broaden its usefulness. Natural waterways and abundant railroad and telegraph communication bring producer and consumer comparatively nearer together, tend to increase the capacity for consumption, and minimize the possibilities of loss. Good roadways, built scientifically and substantially, will cheapen still further the cost of transportation and increase the value of farm lands.

Material, social and political conditions are doing much for the farmer besides widening his markets. They are enabling him, by their steady influence toward the greater diffusion of intelligence, to avail himself of his opportunities for advancement. The average farmer is no longer a rustic. Railroads and newspapers have brought him into closer contact with the outside world—he can feel more acutely and appreciate more clearly the mighty impulse of progress in the business and intellectual world. The agricultural press is doing a noble work for his emancipation from old-fashioned ideas and slipshod methods. Scientific agriculture is no longer scoffed at. Slowly but surely the transformation is going on. It always takes time to effect a social revolution.

As a New Yorker whose earliest recollections and fondest associations are of the farm, I have been profoundly interested in this important movement; and as a citizen of the State I am proud that our government has been and is taking an active part in the solution of this problem. No one who has the welfare of the State at heart will discourage any intelligent legislation designed to improve the condition of nearly one-fourth its people and promote the prosperity and comfort of them all. Such legislation has been particularly abundant during the last ten years. Prior to 1880 the Legislature restricted its aid to appropriations for premiums at State fairs, but since that year the laws have taken a wider range, more in keeping with the spirit of agricultural progress, and the government has become a recognized leader in the new movement. Upwards of a million dollars have been appropriated for the encouragement of agriculture in certain directions. I am not prepared to say that all this money has been expended wisely, or that the results have been what they should have been, but I have mentioned the fact of the appropriations to indicate the sympathetic interest which our law-makers have displayed in the subject. A State experiment station has been established, and is doing excellent work in reducing agriculture to a scientific basis and educating farmers in the economy of production. The quality of feed for stock, the value of different kinds of fertilizers, the rotation of crops, the diversification of agriculture, the best uses for different kinds of soil—are all practical matters which receive intelligent treatment at this institution. A State dairy commission has been established, empowered to prevent deception in dairy products and to encourage dairy farming. The results of its efforts have been very pronounced. The standard of our cheese is constantly advancing, spurious butter has been driven from our markets, and, through the personal contact of inspectors and cheese

instructors with dairymen, both farmer and cheese-maker are getting better returns for their labor. Aid has been given to great fairs — agricultural object lessons — like this, where farmers can knock up against each other and the exhibits, and carry home new ideas to put into execution. A meteorological bureau has been established, which issues periodic bulletins of crop reports. Appropriations have been given to farmers' institutes, and in various other ways legislation has endeavored to make the lot of the agriculturalist easier, by encouraging him in methods to promote the wealth and prosperity of the State.

On behalf of the State I invoke in this work of agriculture encouragement and the hearty assistance and support of the farmers themselves. I urge them to watch carefully every law that is proposed in their interest, and determine for themselves whether it is likely to be helpful or of no benefit. I warn them against illusive hopes and also measures of relief, whether State or National, in their reach. And I caution them, too, against too great a dependence on legislative support. Necessarily it must be spasmodic and often misdirected. Let us all, individually and collectively, through private argument and example always, and through State agency when practicable, work together intelligently and patriotically to elevate the condition of agriculture in this State, and through its prosperity confer a blessing on every citizen.

LETTER OF GOVERNOR FLOWER ON THE OCCA-
SION OF THE CANAL CENTENNIAL CELE-
BRATION AT BUFFALO IN OCTOBER, 1892.

Executive Chamber,

Albany, October 14, 1892.

DEAR SIR.—I am in receipt of your invitation to address the Centennial Canal Convention in Buffalo on the evening of the 19th inst., and I regret I shall be unable to be present, since at that time I shall be on my way to Chicago to attend the dedicatory exercises in connection with the World's Fair.

I have but recently returned from a trip of inspection of the Champlain and Erie canals and am more than ever impressed with the importance of their maintenance as highways of commerce. I feel also that personal investigation has made me better acquainted with their needs, and I trust that this practical observation will assist me in the consideration of legislative measures for their improvement and support.

In my judgment there are only a few locks which need enlargement at the present time. The Superintendent of Public Works estimates the number at five and the State Engineer at eleven. Provision for this enlargement should be made by the Legislature in the near future.

The Erie Basin at Buffalo should be deepened so as to admit boats of larger draught. The canal should have exactly as good facilities at this terminal point as the railroads have.

I observed several places along the canal where the interests of economy demanded immediate appropriations for repairs to

avert involving the State in large expenditures for damage suits.

Some parts of the Erie canal are in need of considerable dredging, at which the Superintendent of Public Works is now engaged.

So far as my influence can be exerted nothing will be left undone to keep the canals in thorough repair and in an improved state of efficiency. What seems to be most urgently needed is faster navigation. It is a curious thing that in spite of the wonderful advances in means of rapidity of transit during the last half century canal boats are still propelled by the old-fashioned power. If steam cannot be successfully utilized without injury to the canals, I suggest whether electricity does not offer some encouragement, applied possibly after the fashion of the trolley system. Between Niagara Falls and the Hudson river there are ample water powers for generating the electricity, and that would obviate one great difficulty. There may be others, quite insuperable, which will occur to practical minds, but certainly the advantages of swifter canal navigation warrant careful investigation and experiments in this direction.

Until conditions radically change, the preservation of our canal system will be essential to the maintenance of our commercial supremacy among the States. In 1825, when the Erie canal was completed, we stood fifth in commercial rank; now we stand first. We should take care not to lose that supremacy by any short-sighted policy toward the State's waterways.

It must not be overlooked, however, by friends of the canals that in some sections of the State they are unpopular, and the large sums expended on their maintenance, repairs, and improvements are grudgingly bestowed. That sentiment is increased whenever excessive appropriations are asked and whenever there is apparent waste or misapplication of public moneys in

their behalf. It is strong numerically in the Legislature and strong among influential elements in our population. The true friend of the canals, it seems to me, is he who believes in economy and prudence of management, and supports only those measures of improvement which good business policy and the State's growth may dictate. The danger is, as I stated in an official communication last spring, "that too great liberality in canal appropriations will, by provoking opposition from unfriendly sources, react against the very cause they are designed to promote."

With kind wishes for a successful convention, I remain,

ROSWELL P. FLOWER.

WILLIAM THURSTONE, Esq.,

Secretary, etc.,

Buffalo, N. Y.

GOVERNOR FLOWER'S REMARKS AT THE COLUMBIAN BANQUET IN NEW YORK, OCTOBER 13, 1892, IN RESPONSE TO THE TOAST "THE STATE OF NEW YORK."

Mr. CHAIRMAN AND GENTLEMEN :

Never before in my life could I have felt so proud to respond to the toast which has been assigned to me as upon this occasion.

Born within the borders of this State, and dividing my years between the quieter pursuits of the country and the active demands of business life in this metropolis, I had learned long before I became Governor to love and honor the proud name of the State of New York. I knew the character of her people and the scope of her resources ; I knew her supremacy among the States in population, in wealth, in commerce, in manufactures, in agriculture, in schools of learning, in art and in literature. But these elements of greatness have been more than ever impressed upon me during the few months that I have been your Chief Executive, and the events of this week whose ceremonies we are now bringing to a close have stirred in me, as I am sure they have in you, new emotions of State pride and admiration.

You have invited me at an opportune time to speak for "The State of New York." My summer has been largely occupied in getting intimately acquainted with the people, the resources, and the institutions of the State. I have several times within three months traversed its length and breadth. I have visited its principal cities and villages, I have been on its

beautiful rivers and lakes, I have been in its fertile valleys and I have pierced into its great northern forest. No man can travel over our 50,000 square miles of territory without being impressed anew each time with its wonderful natural advantages as a seat of empire. I have inspected the State's prisons, its hospitals, its quarantine stations, and its reformatories. I have visited its educational institutions, its agricultural stations, its fish hatcheries, its oyster beds, its camp of military instruction at Peekskill, and when summoned here to take part in these anniversary exercises I was about completing an inspection of its canals—those great waterways through which the West has poured its golden treasures, enriching itself and promoting New York's proud commercial supremacy.

I have come to you therefore with more than usual enthusiasm for my State and more than ever attached to its prosperity and best interests, and the magnificent demonstrations of this anniversary week have only added to that enthusiasm and attachment.

It has seemed to me particularly appropriate that Columbus's great achievement should be celebrated after 400 years in this greatest city of his hemisphere. All the longings and aspirations which inspired the discoverers in that famous age of exploration have found fullest expression in the history of this city and State, and now find their completest answer in the elements which make up our State and metropolitan supremacy. If the navigators of that day and their royal patrons, and the colonizers of later periods, could come back to earth to view the outcome of their ambitions and struggles in exploring and peopling a new hemisphere, I think they would find most to interest them right here within our borders. They dreamed of wealth, and here it is beyond imagination's furthest limit. They longed for power, and here it is greater than that of any ancient empire. They sighed for liberty, and nowhere is lib-

erty more securely established and the right of citizens more jealously guarded. They sought the spread of Christianity, and nowhere is the influence of Christ's Church greater—not only sending its gospel through every household in our commonwealth, but diffusing its charity to the very ends of the earth.

New York exemplifies most perfectly the spirit of progress and liberty which overturned old-world traditions and ideas and in a new continent found opportunity for the freest development of the highest human instincts. Her geographical position and physical advantages made her the seat of empire when Indians occupied the continent, and destined her for the proud part which she has since taken in the evolution of a new government and a new civilization on American soil. In her capital city of Albany began the first concerted movement for a union of the colonies. In the war of the revolution her territory was the scene of desperate battles, in which her sons bore a brave part. In the construction of a form of federal government her influence was firmly felt, and in the history of national politics throughout our century of federal life no State in the Union has borne a more active or more honorable part. In a material and intellectual way her achievements have excited the wonder and respect of the world and have given her first place among the States. The opening of the Erie canal poured the wealth of the continent at her feet. Her variety of soil and climate has made her the leading State in value and variety of agricultural products. Her unequalled water powers and accessibility to markets have made her the strongest manufacturing State. Through her magnificent harbor goes and comes the greater part of the whole country's commerce. Her wealth, accumulated to vast proportions by industry and thrift, furnishes capital for an entire nation's enterprise. The sudden and marvelous development of the West,

the recent growth of manufactures in the South, may each trace its origin chiefly to the encouragement and stimulus afforded by New York money. Her metropolis is the metropolis not alone of the country but of the hemisphere. In art, in science, in literature, the intelligence and opportunities of her people have enabled her to take first rank, while her educational institutions, her common schools, her institutions of charity and correction and her laws have long been models for other States. Beyond all this, I doubt if anywhere in the United States could there be a more superb expression of patriotism or a finer display of sympathy with the cause of liberty than the celebrations of this week have called out from our people, which is all the more gratifying because in the demonstration have joined the hundreds of thousands of men and women of foreign birth or descent who live in our metropolis and are proud to call themselves American citizens.

It seemed to most of us here two years ago that possessing all these advantages New York should have been accorded the honor of holding the World's Fair that was to celebrate the 400th anniversary of Columbus's discovery and mark the development of our country during that period of progress. This week's demonstrations have shown what a grand success New York would have made of the Exposition had Congress seen fit to intrust it to her supervision. But to me a large part of the grandeur of our local celebration here has been that in the face of that keen disappointment two years ago, which must be still fresh in the minds of many of us, our citizens have given such a magnificent exhibition of their broad and unselfish patriotism in concealing every trace of resentment and entering generously, unitedly and heartily into the festivities of the week. All New Yorkers must feel proud of this new illustration of New York's mental measure. Proud as we are of her material greatness we should be prouder still that pros-

perity has not warped the minds of her people nor deadened the spirit of patriotism among them, but has made them broad-minded and generous—Americans first and New Yorkers afterward.

At this time for contrasts and mutual felicitations over our National and State prosperity we should not forget that the problem of civilization, toward whose solution the discovery of the Western Hemisphere so largely contributed, is still far from solved. There are only a few of us who believe we are progressing backwards, but none of us can shut his eyes to the existence of great dangers. I am not a pessimist or an alarmist :— I prefer to see ground for hope and encouragement in all our nation's wealth and prosperity, and I believe that in those two great mainstays of national glory—private honor and official integrity—we never stood higher than we stand to-day ;— but I fear sometimes lest that sense of security which our progress has given us may prevent us from seeing real though insidious dangers. What is necessary, and what such anniversary occasions as these tend to promote, is a vivid consciousness that we are builders of a government and a civilization as well as our ancestors were,— that we shall be held accountable, as they are, for the quality of our work,— and that we should seek as full a measure of praise from the generations which will succeed us as we accord now to those who preceded us. We are living under a form of government which experience has demonstrated to be the wisest devised by mankind. It is the product of the evolution of liberty during four centuries. Its purpose is to give the greatest happiness to the greatest number consistent with the permanence of law and order. That great end should never be lost sight of. Under our political system the federal government is designed to have little direct communication with the individual citizen ; when he comes into contact with a govern-

ing power it is most frequently that supplied by the machinery of State or local government. So that abuses in State or local government most directly affect his comfort or prosperity. Yet so interwoven are the vast interests of our country, and so interdependent are our people, that the laws of one State often affect the citizens of other States and the prosperity of one is directly connected with the prosperity of all. Such a relationship binds the people of one section closely to those of another, and while in political matters we grow more and more attached to the American principle of local self-government and home rule, in material and intellectual matters our relations are becoming more complicated and centralized, and we are all working harmoniously together for the elevation and prosperity of our common country.

It is this common relationship and interdependence between States, developed by the growth of nationality and the gradual concentration of material affairs into one great organism, which imposes additional responsibilities upon us who live in the Empire State and broadens the scope of our patriotic impulses. We are primarily interested in the preservation of law and order within our borders, but in slightly lesser degree are also millions of our countrymen elsewhere who have business and social relations with us. We are chiefly concerned in honest and frugal government, wise laws and faithful public service within our boundaries, but to almost the same extent are the citizens of other States, for the same questions which first demand legislation here present themselves elsewhere and must be treated in the light of our experience. Because of our supremacy we are chiefly interested in wisely solving great social, commercial and industrial questions, but the people of other States have or will have the same problems to solve, and they share with us the benefits of their wise solution. We have attained supremacy because we

have always recognized that the prosperity of other States was our prosperity and the welfare of the country our welfare. Let us maintain our supremacy by continuing the same broad policy. Other States, assisted by our resources and far-sightedness, have become great and powerful and are eager to seize the commanding place we have so long held. We bid them goodspeed. But in this healthful rivalry we still maintain our lead and shall not be outrun without a struggle. Our sister States still look to us for leadership in statecraft, industry, commerce and learning.

This confidence should inspire us in grappling the troublesome questions for which new conditions demand solution. The problems of to-day are not easy to solve and they merit the earnest and unselfish attention of every citizen. If I could give one word of advice to the people of this State at this time, when their hearts are more than ordinarily responsive to patriotic suggestions, it would be to take greater interest in public affairs. The combined wisdom of six millions of people is likely to be nearer the truth than the wisdom of a few preachers and prophets. Let us turn away from these anniversary exercises infused with fresh pride for our country and our State, and filled with stronger determination to lend all our energies for their common glory.

GOVERNOR FLOWER'S ADDRESS AT THE DEDICATION OF THE NEW YORK BUILDING OF THE WORLD'S COLUMBIAN EXPOSITION, AT CHICAGO, OCTOBER 22, 1892.

MR. CHAIRMAN AND FELLOW CITIZENS OF NEW YORK AND ILLINOIS:

On behalf of the citizens of New York, I am here to-day, with other civil and military officers of our State, to give formal expression to the interest which our people feel in this national undertaking, and to dedicate the beautiful structure which her munificence has contributed to the architecture of this Exposition.

I consider it a proud honor that, as Executive of the greatest State in the Union, I am permitted at this Columbian Anniversary to bear her message of greeting and good-speed to the promoters of so praiseworthy a national celebration. As chief participant among the States in the material and intellectual advantages which Columbus's discovery gave to civilization, New York should be, and is, the gladdest participant in this exhibition of the New World's marvelous growth and development during four centuries. So interested was she in its success that she struggled hard for permission to hold the Exposition within the borders of her own territory, but, though she failed in that, her interest is none the less intense, and, with the unselfishness of true patriotism, is joining hands with Illinois in a noble endeavor by this undertaking to promote the glory and prosperity of our common country. We trust that the representation which her government and her

citizens will have upon these grounds will vividly illustrate the story of New York's proud growth and add new lustre to her recognized supremacy.

The earliest settlement by white men, within the limits of what is now the State of New York, was a trading-post at the southern end of Manhattan Island. From that beginning has grown the greatest city of the continent, and the site of the first rude log cabin, built by adventurous Hollanders, is to-day the very kernel of the Commercial Metropolis of the Union. The center of population in New York city has moved far up the island, and the splendid emporiums of its local trade are invading districts where, in the memory of men still living, the sportsman went to seek for quail and woodcock. But for the Metropolitan district—the greater New York—the center alike of population and of commercial activity remains at this hour where that bold Amsterdam skipper, Captain Adrian Block, placed it 279 years ago

What the lower end of Manhattan Island is to the three millions of people living around it, that the State and city of New York are in a certain degree to the people of the United States. With each successive census the center of population of the Union has been shown to have shifted westward along the thirty-ninth parallel from the seventy-sixth to the eighty-fifth degree of longitude. It was eighteen miles west of Baltimore in 1800, and it is found to be twenty miles east of Columbus, Ind., in 1890. But the heart that keeps the life-blood of commerce circulating through the veins and arteries of this great Republic is where it was when the years of American progress were few, and where it will be when they are counted by centuries.

New York owes much to the development of the Great West, but that development also owes much to New York. When the American colonies were a fringe of sparsely peopled com-

munities stretched along the Atlantic seaboard, there were provinces for which a greater future might have been predicted than for New York, and cities that bade fair to lead in the race for wealth the bustling port on the Hudson. But when the Colonies had become self-governing States and the tide of migration began to pass beyond the mountain barrier and overflow into the valley of the Mississippi, the future greatness of New York was assured. For here was a new domain, broad as the continent of the older world, and far more fertile, to which New York supplied both entrance and outlet, and with whose growth in wealth and population its own were bound to grow. Henceforth the rank of New York among American commonwealths was as little doubtful as that of the parent seat of its trade among American cities.

New York was formed by nature to be the Empire State of the Union. The ocean tides that sweep from the Atlantic into the noblest of American harbors are felt deep in the heart of the State. The sea has cleft the backbone of the continent for a path for the commerce of New York, and the level sweep of the western prairies broadens out from the valley of the Mohawk. In war and in peace our State has held the gate-way of the continent. It was so when the red man owned the soil, and when the Iroquois Confederacy dictated to subject tribes from the Lakes to the Gulf; it will be so when the net-work of the roads of commerce by land and water are to those of our time as ours are to those of the stage-coach and the pack-mule.

As Henry Hudson sailed up the noble stream that the aborigines called "the river of the mountains," he thought that here, indeed, must be the strait between two oceans, the long sought for north-west passage to India. But though he found "as beautiful a land as the foot of man can tread on," he little dreamed that this was the passage to an empire which had in

store for coming generations riches beyond the treasure of far Cathay. It took more than a century for men to grasp the significance of the discovery of Columbus, and it was another two centuries before it was fairly dedicated to its destined use. For this virgin continent that the navigators of Europe had stumbled on in their search for a short cut to Asia had a larger part to play in the drama of human history than to be merely a new battle-ground for old world quarrels and a new sphere of ambition for old world dynasties. It had been reserved through all the ages to give man a new opportunity to show that he is worthy to be free, and to enable him to work out on the grandest scale in history a scheme of liberty, combined with order, which should stand as an example and an encouragement to all the world beside. Time has verified with marvelous accuracy the prediction of the Irish poet, recorded about one hundred and fifty years ago, and familiar now to every school boy :

“ Westward the course of empire takes its way;
The four first acts already past,
A fifth shall close the drama with the day;
Time's noblest offspring is the last.”

In this great enterprise New York has nobly borne her share. The protest of her provincial Legislature against the stamp act is recorded to have breathed a spirit more bold and decided than that from any other colony. It was within her borders that the first Scheme of Colonial Union was formulated, and there also assembled the first provincial Congress to prepare the ground for the fair edifice of American liberty. The first State Constitution of New York has been universally accorded the very highest rank among the written instruments of human freedom. Her share in the making of the Federal Constitution was no less important than honorable, and the stand which she took to defend the sovereign rights of the smaller States against

influences that would have given the States of her own rank an overmastering influence over the general government has been, with justice, called the noblest passage in her history.

Toleration and comprehensiveness have been stamped on the administration of public affairs in New York from the earliest period, and history has fairly given her credit for these. But the credit she deserves for a magnanimous disinterestedness is neither so freely admitted nor so well understood. It is not alone in the records of the Constitutional Convention, or in the part she bore in the struggle which preceded it, that the evidence of this is to be found. In conceiving and executing what was then regarded as the gigantic project of uniting Lake Erie and Lake Champlain with the Hudson River, New York conferred on the whole country a benefit whose value has never been fully estimated and one not to be offset by any immediate gain to herself.

At the present day the construction of the Erie canal has ceased to be a marvel, but at the time of its commencement, seventy-five years ago, it stood as the greatest public enterprise of modern history. It was a work of national, not of international, importance, and its magnitude challenged the attention of the world. Yet it was undertaken, singly and unaided, by a State whose finances had barely recovered from the effects of a war which had increased the burden of her debt and paralyzed her commerce, and whose entire population was less than that of the city of Chicago to-day. At the celebration of the completion in 1825 of this great undertaking, Philip Hone, the Mayor of New York city, reminded his hearers, in a strain of pardonable pride and exultation, that this was exclusively a State work. He said: "In its infancy its feeble hands were in vain extended to the general government for aid and support, and the State of New York, unaided, unsupported, and relying only upon its own energies and the

patriotism of its own citizens, began with zeal, prosecuted with spirit, and has now successfully completed an enterprise which seemed to require the power and the resources of an empire to accomplish."

New York, doubtless, had her reward, but it was because in uniting the great lakes with the Atlantic she was doing a much greater service to the country at large than could be measured by any immediate gain to herself. "Now," said the men of that day, "the time is near at hand when the minerals of the mountains, and the rich products of a fertile soil, 'where prowls the wolf and the huntsman roves,' will jointly increase domestic and foreign commerce and pour wealth into the lap of industry." "Hereafter our wheat will compete in the European markets with that of Poland and Odessa, and a commerce be established important to the merchant and beneficial to the agriculturalist." On rising to a higher elevation, they found matter for congratulation in the fact that "the canal removes the cloud which hung over our interminable forests; and the philanthropist and patriot are no longer pained with the idea of the greater portion of our empire containing seigniories of wild beasts, or coverts for banditti and a refuge for criminals." Or still more sweeping in its flight and penetrating in its vision was the oratory which discerned in the Great Western canal a stronger tie than that of a national compact, and which hailed it as destined to secure and consolidate forever the union of these States. "Thus," in the words of William Bayard of New York, "our republican institutions will be preserved, the example of a representative government founded on the people's will, be maintained in its pristine purity, and the once fond wish of the patriot be realized, in the unsullied perpetuity of our Constitution."

When the Erie canal was constructed the agriculture of New York was flourishing, and her western counties were still

but partially redeemed from the virgin forest. The canal rendered possible and profitable the settlement of the valley of the Ohio, and the process of western competition, which was then begun, has ended by making it unprofitable to pursue the course of crops and husbandry on which New Yorkers thrived sixty years ago. Nevertheless, we shall be able to demonstrate to the world at this Columbian Exposition that our agricultural products are greater in quantity and more varied in kind than those of any State in the Union. New York is preparing a display of cereals whose quality will challenge comparison with any; it has over a hundred varieties of grasses to place on exhibition, and its hops, tobacco, hemp and flax will make to every intelligent observer a most impressive show. It will contribute its full share to the live-stock exhibit, and its dairy products will be presented on a scale commensurate with their magnitude and excellence; the sugars, the syrups, the honey contributed by the State will not lack adequate representation. The Exposition will be plentifully embellished by the most beautiful specimens of its gardeners' art, and the enormous proportions and value of its fruit culture will be made plain to the dullest apprehension. It is not generally known that, leaving out the fruits of Florida and California, the orchards of the State produce more than those of all the other States combined, and that in money value to the grower the grape crop of California must yield to that of New York. Even the nutritious and fortifying bean, from whose consumption a neighboring commonwealth is supposed to derive so much of its characteristic mental and physical activity, is peculiarly a New York product, two or three counties of this State growing as much of it as all the rest of the country together.

I venture to hope that the striking exhibit which will be made of our diversified agriculture will not be lost on those

New York farmers who have not learned how easy it is to escape the ruinous competition of the West in the great food staples, by adapting themselves to the demands of domestic markets that the State has within its own borders. There was a time, which some of us may live to see again, when the wheat and corn-fields of New York yielded a good living to those who cultivated them. But for the last quarter of a century it has been up-hill work for grain farms in New York to make both ends meet. Among the lessons which the Department of Agriculture at this great Exposition can yield to those who bring any intelligence to the study of what it will have to show, not the least valuable will be that which demonstrates in how many ways much of the soil of New York can be made to give a better return for the labor bestowed on it than it does now.

The rock formation of the State is a complete epitome of that of the whole country below the coal measures, and its geological exhibit will be, perhaps, the most striking of any which will be seen in the Hall of Mines. New York has the only fluid saline deposit in America, and the salt crystals of Herkimer county will make an appropriate center-piece for the mineral exhibit of the State. We have iron and lead, granite and marble, slate, gypsum and marl, to place in the commercial category of our mineral resources, and one of the best equipped State museums in the country, from which to draw specimens of scientific interest. The forest products of the State will be shown as they have never been before. Short as has been the time available for the preparation of these characteristic exhibits of the material greatness of the State, they will be found to show no marks of haste and to be above the reproach of scantiness.

Representing ten per cent. of the population of the United States, sixteen per cent. of the assessed valuation of their prop-

erty, and probably twenty per cent. of their actual wealth, New York may be fairly expected to have in the great buildings before us commercial exhibits worthy of her place in the Union. When the doors of the World's Columbian Exposition are thrown open next May this expectation will be found to be fully verified. The number of her individual exhibitors is likely to exceed 2,000, and the range of the products which they will show is as broad as the industries of the United States. In New York city we have the greatest manufacturing community in the country: and if the circle be enlarged so as to include the wide area of the Metropolitan District, we have, within a radius of twelve miles from the City Hall of New York, an aggregation of productive effort which for variety and value can hardly be matched in the world. This will have its due representation in the appropriate departments here, and though the contributions of this great hive of industry cannot be grouped together according to their place of origin, the records of the Fair can hardly fail to bear eloquent testimony to the energy, enterprise and skill of the metropolis of workers that surrounds the harbor of New York.

Art and literature have yielded in all ages to the attracting force of great cities, and our time shows but few exceptions to the rule. New York is the chosen home of American art; beyond its limits the accepted representatives of native painting and sculpture are comparatively few. Of the 34,000 square feet of wall space reserved in the Art Palace for the pictures of the United States painted in the last sixteen years, the larger portion will, therefore, be occupied by the work of New York artists. No more valuable exhibits than these will be intrusted to the care of the Exposition authorities, and none with which the prompting of mere commercial profit will have less to do. The State recognizes the fact that its own credit demands an adequate presentation of the fine arts nourished within its bor-

ders, and its assistance has been freely given to provide for the safe transportation of works that, in many cases, represent the sole possessions of their makers.

Equally imperative has been the obligation of the State to be adequately represented in the Educational Exhibit of the Exposition. Our public school system was one of the first established in the Union, and we believe that there is no more congruously developed system in the country to-day. It is a great work, this of showing the whole field of scholastic education from the lowest primary grade to the academy, the normal school and the college, of illustrating the methods that prevail in it and of preparing specimens of what it yields. The mere collection and arrangement of samples of the work of pupils from all parts of New York is a task of uncommon magnitude, and it is one that can only be done by those wielding the delegated authority of the State. But it has been committed to capable hands; and I do not think that in this sphere of civic effort New York will have any cause to blush for the results of comparison with her neighbors in the Department of Liberal Arts.

The University of the State of New York, an agency for the promotion of higher education, without a counterpart in any other State of the Union, will make a comprehensive showing of its mode of operation. The leading colleges of the State will have independent exhibits of a kind inferior to none of their associates in the work of academic culture. Our chief technical schools, our institutions for the education of the blind and the deaf and dumb, as well as the reformatories of the State, will have proper representation here. So will the great public hospitals and asylums, those monuments of private beneficence and State and municipal charity, which are not the least of the glories of New York.

We shall be able to point to this building in which you are assembled, as New York's most beautiful exhibit. I count it a pride and privilege to dedicate, as I do now by the prerogative of my office, this fair structure to the reception and convenience of New Yorkers visiting the Fair, and to the entertainment of all to whom the State may extend its hospitality. The plan of this building, down to the minutest detail of its lavish ornamentation is a birth of the same time, an outcome of the same spirit that sent Columbus on his voyages and enlarged no less the scope of human intelligence than the boundaries of the habitable globe. It belongs to the period of the new birth of learning and of art, when the torpor of centuries was thrown off and the history of modern civilization began. In the republics of Italy, whose merchants were princes, palaces, of which this is the similitude, were built while Columbus was brooding over his enterprise of wresting its secret from the western sea. In such abodes did men live whose wealth was fed by countless rills of peaceful traffic from three continents, and in such were luxury and display tempered by a discriminating taste in art and by a sense of the obligations of a stirring and elevating public life. Our State building stands for some of the noblest ideals that commerce ever fostered or civic pride ever maintained, and it is, therefore, a most fitting representation of the visible presence of New York at the approaching Congress of Nations.

To that gathering New York will come, bringing the best she has, whether of the bounty of nature or the art of man. In the pride with which the whole country may justly regard the greatest, the most comprehensive and the most impressive of all International Exhibitions, New York will fully participate. The lustre which the World's Fair will shed upon the city by whose energy and enterprise it has been promoted, New York will do her utmost to enhance. There will be neither East nor

West, North nor South in this magnificent display of the gathered fruits of human progress at the close of the nineteenth century. Neither sectional nor municipal jealousy can have a place in a celebration whose grandeur all the world is helping to swell, and in which all the world will participate. A generous rivalry can alone have place in our people's effort to show that they have not been unfaithful to the responsibilities laid upon them, and that they have not been careless stewards of the heritage which, through the centuries, was prepared for the great Republic of the West.

STATEMENT
OF
PARDONS
AND
Commutations of Sentence
GRANTED BY
ROSWELL P. FLOWER,
Governor,
DURING THE YEAR 1892.

PARDONS.

April 27, 1892. William Orr. Sentenced May 30, 1891; county, Fulton; crime, assault, third degree; term, four months; prison, Albany County Penitentiary.

The offense was not a serious one, and was committed under great provocation. A fine would have been quite sufficient punishment. The District Attorney recommends the prisoner's release.

June 4, 1892. Joseph Barondess. Sentenced May 7, 1891; county, New York; crime, extortion; term, one year and nine months, prison, Sing Sing.

Barondess was indicted for the crime of extortion, the indictment charging him with having obtained from Popkin & Marks, cloak manufacturers in the city of New York, the sum of one hundred dollars by means of threats unlawfully to injure their business. The facts of the case as shown on the trial are that in January, 1891, the employees of the complainants, Popkin & Marks, being dissatisfied with their wages, went on a strike. Negotiations followed which, after some delay, resulted in an adjustment of the matters in dispute and an agreement as to wages satisfactory to the strikers. But Barondess who had acted as their agent or representative during the negotiations, refused to permit them to return to the complainants' service unless the complainants should first pay to him the sum of five hundred dollars. This was refused. The amount demanded was afterwards reduced to one hundred dollars which

was paid and the strikers returned to their work. Barondess appealed from the conviction to the General Term, where the judgment was reversed, one of the Judges, Hon. Charles Daniels, dissenting. An appeal was then taken to the Court of Appeals, where the judgment of the General Term was reversed and that of the Oyer and Terminer affirmed, the majority of the court adopting the opinion of Judge Daniels in the court below. Three of the Judges of the Court of Appeals dissented. This unusual difference of opinion among the Judges was upon questions which went to the very foundation of the case, those who were for reversing the conviction maintaining that the evidence altogether failed to establish the charge of extortion contained in the indictment, that whatever view might be taken of the acts proved, they did not constitute an offense against the criminal law, but were in all respects lawful; while the other judges held that the case was properly submitted to the jury and that the evidence fully warranted and sustained the verdict. The District Attorney writes as follows: "It is my opinion that strict justice demands the pardon of Barondess. He had no criminal intent for he did not know that he was committing a crime. The question whether the acts committed by him amounted to a crime was passed upon by eleven Judges: one at Oyer and Terminer, three at General Term and seven in the Court of Appeals. Of these, two at General Term and three in the Court of Appeals decided that his acts did not constitute a crime; while one at General Term and four in the Court of Appeals held that they did. The learned Justice who tried the case granted a certificate of reasonable doubt after conviction. With such a division of judicial opinion upon the main question, I do not think that criminal intent ought to be imputed to the prisoner. The legal question has been settled and the law declared for future cases." In this opinion of the District Attorney I fully concur. To hold the prisoner

criminally responsible for an act which so many Judges pronounced altogether lawful seems not only unjust but cruel. But there is a further reason for granting the pardon which is quite conclusive. Judge Daniels plainly intimates in the opinion above referred to that if Barondess in exacting payment of the money received by him was acting for the workmen and by their authority, and received it for them and appropriated it to their use, he ought to have been acquitted; that his demanding and receiving the money under those circumstances would not constitute a crime. How much stress was put upon this point on the trial I am not informed, but from the evidence produced before me I am entirely satisfied that the money was so received and disposed of and consequently that Barondess has not committed any criminal act, that he ought not to have been convicted and of course ought not to be punished.

July 14, 1892. William Burnham. Sentenced March 7, 1891; county, Broome; crime, robbery, first degree; State Industrial School.

The prisoner and an older companion having wandered away from home arrived at Binghamton hungry and destitute, and in order to relieve their wants took fifty cents from a newsboy, who was exhibiting his earnings to them. Burnham was indicted and on his plea of guilty was sentenced to imprisonment in the State Industrial School subject to the provisions of law relating to that institution. He was then fifteen years of age. He had received a fair education and before this occurrence had always borne a good reputation. During the time that he has been at the Industrial School his conduct has been free from fault and it is safe to conclude that he will hereafter avoid criminal ways. He deserved punishment, but taking into account his youth, his previous good character and the circumstances of the case, imprisonment for the time he has now been confined, about one year and a half, seems sufficient. His

parents have a good home where they are anxious to receive him, and while he might by remaining at the School be given instruction and be under influences which would prove beneficial, still he can have these advantages at home, and it seems wiser to allow him to return there than to keep him longer in confinement for the sole purpose of making him earn his discharge.

July 25, 1892. William Vanderhoof. Sentenced March 14, 1892; county, Kings; crime, petit larceny, two charges; term, six months; prison, Kings County Penitentiary.

Granted on the recommendation of the magistrate before whom the case was tried. Evidence submitted on the application for clemency tends strongly to establish Vanderhoof's innocence, and the principal witness for the prosecution, without whose testimony the prisoner could not have been convicted, has confessed that he alone committed the offense and that Vanderhoof had nothing to do with it.

October 28, 1892. Thomas Hayes. Sentenced January 12, 1875; county, New York; crime, murder, second degree; term, life; prison, Sing Sing.

Hayes had a fight with the deceased and shot him and was convicted of murder in the second degree. The application for his pardon has now been pending for some years. It is very strongly supported by a large number of prominent citizens of New York, among the rest by ex-Mayor William H. Wickham, Clinton B. Fisk, Elliott Roosevelt, A. S. Hatch, Rev. Henry J. Van Dyke, F. E. Platt, S. Otis Livingston, Edmund C. Stedman, Charles Buckley Hubbell, D. Stuart Dodge, William E. Dodge, Rev. Arthur Brooks, J. D. Rockefeller, Rev. William R. Huntington. The judge before whom the trial was had, in a letter dated November 13, 1886, says that as there was no special element of atrocity in the crime and as Hayes' conduct has been something more than the ordinary good

behavior which the law mercifully takes into account where the penalty is less than imprisonment for life, he does not hesitate to express the opinion, though usually averse to interference with life sentences, that executive clemency to the extent of commutation to fifteen years of imprisonment would be wise and under all the circumstances proper and discreet. The District Attorney and his assistant who conducted the prosecution concurred in this recommendation. Hayes has now been in prison nearly eighteen years which I think is long enough for all purposes of justice.

October 29, 1892. Francis McGuire. Sentenced October 19, 1876; county, New York; crime, murder, second degree; term, life; prison, Sing Sing.

The circumstances of this case as reported to me by the District Attorney would have been fully satisfied by a verdict of manslaughter in the first degree. In fact I am informed by a gentleman familiar with the case that before the trial the District Attorney who had the matter in charge expressed a willingness to accept a plea of guilty of that degree of homicide, but that the prisoner declined to offer it. The present District Attorney says that as the prisoner has already served a longer term than that for which he might have been sentenced had he been convicted of manslaughter in the first degree, allowing commutation for good behavior, he does not think that the interests of justice would be prejudiced by granting the clemency asked for. The punishment already inflicted is quite sufficient for the real degree of guilt.

November 18, 1892. Henry F. Murphy. Sentenced September 6, 1892; county, Monroe; crime, petit larceny; term, one year; prison, Onondaga County Penitentiary.

Granted on the recommendation of the judge, who says that the sentence was passed under a misapprehension of the facts.

December 9, 1892. Mary Frisch. Sentenced September 8, 1859, to be executed; county, Genesee; crime, murder, first degree; sentence commuted October 27, 1859, to imprisonment for life; prison, Sing Sing; transferred to Kings County Penitentiary.

This prisoner was convicted in 1859 of killing one of her own children by means of poison and was sentenced to be executed. The defense made upon the trial was insanity and proof was given tending to establish it. An application having been made for clemency, Gov. Morgan appointed commissioners to examine as to her mental condition, and after investigation they reported that in their judgment she was insane, and he thereupon commuted her sentence to imprisonment for life. She has now served an imprisonment of more than thirty-three years, during the last ten of which she has been employed as a nurse in the hospital, where she has been of great service. She is quite old and feeble and a very strong appeal has been presented for her pardon. The District Attorney who prosecuted her recommended some years ago that she be released. Under all the circumstances I think it but just to grant the application.

December 27, 1892. Cumberland G. White. Sentenced December 2, 1892; county, New York; crime, grand larceny, second degree; term, two years; prison, New York Penitentiary.

White may have been guilty technically of larceny, but there does not appear to have been any criminal intent on his part, and as he was kept in the City Prison for fourteen months before the indictment was found, I think that he has received all the punishment that the case calls for.

COMMUTATIONS.

January 14, 1892. Jesse E. Merwin. Sentenced September 17, 1887; county, Warren; crime, grand larceny, first degree; term, seven years; prison, Clinton.

Sentence commuted to imprisonment in Clinton prison for the term of four years, three months and twenty-seven days, actual time, from September 20, 1887.

Giving him the benefit of commutation earned by good conduct the prisoner has now served all but about five months of the sentence imposed upon him. His health is such that if kept in prison during the winter he cannot probably recover; but if he can be removed to a milder climate his life may be considerably prolonged. He has relatives who are able and willing to take care of him. The District Attorney who prosecuted the case recommends that the application be granted.

January 22, 1892, Ira West. Sentenced January 15, 1879; county, Orange; crime, arson, first degree; term, life; prison, Sing Sing.

Sentence commuted to imprisonment in Sing Sing prison for the term of thirteen years and three days, actual time, from January 21, 1879.

West was sentenced to imprisonment for life when that was the only punishment prescribed for arson in the first degree. Since then the statute has been changed and the punishment is now imprisonment for not less than ten years. Allowing him the usual commutation he has now served a term of twenty

years and upwards which is quite severe for the crime committed, no injury having been done to person or property. Under the circumstances I think him entitled to the benefit of the amended statute.

February 4, 1892. Nicola Trezza. Sentenced June 9, 1890, to be executed; county, Kings; crime, murder, first degree.

Sentence commuted to imprisonment for life in Sing Sing prison.

On the 6th day of April, 1890, in the town of Flatbush, Kings county, Trezza shot and killed Alexander Salvano, and was afterward convicted of murder in the first degree and sentenced to be executed. The evidence on the trial, most of which was furnished by members of Salvano's family, was to the effect that Trezza while visiting the deceased on the day in question, uttered threats of violence against him, and that as he was leaving the house and while Salvano stood in or near the outside doorway he shot and killed him; his act being of the most inexcusable, wanton and unprovoked character. Affidavits have been presented to me establishing in the most satisfactory manner that the account of the transaction thus given by the witnesses was in some very material respects untrue. The wound given Salvano necessarily caused instant death and he could not have stirred a step after receiving it. These affidavits show conclusively that when he fell he was at least forty feet away from the door and in pursuit of Trezza who was fleeing from him, and not in or near the doorway as stated by the witnesses on the trial. One of the affidavits made by a relative of the deceased who was in the house at the time and witnessed the whole occurrence, but was not sworn on the trial, shows that a dispute arose between Trezza on the one side and Salvano's family on the other which led to blows, and

that to avoid further trouble the affiant put Trezza "out of the house telling him to go home ; and that Salvano opened the door and followed Trezza who was apparently retreating." The Hon. James W. Ridgway, District Attorney, after examining these affidavits, writes that while he was firmly convinced of the justice of the verdict at the time it was rendered, the subsequent proceedings raised considerable doubt as to whether the killing was not preceded by a quarrel in which the deceased, the prisoner and other occupants of deceased's house engaged, during which quarrel an assault was committed upon the defendant ; and that if the evidence subsequently presented had been presented at the time of the trial it would in all probability have reduced the grade of defendant's crime to that of murder in the second degree, and he recommends that the sentence be commuted to imprisonment for life. The Hon. Henry A. Moore who presided at the trial concurs with the District Attorney in this recommendation.

After a careful consideration of all the circumstances I am clearly of the opinion that the death penalty ought not to be inflicted in this case, but that the sentence should be commuted as recommended by the Judge and the District Attorney.

February 5, 1892. John K. Spence. Sentenced February 24, 1890; county, Erie; crime, burglary, third degree; term, three years; prison, Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of one year, eleven months, eleven days, actual time, from February 26, 1890.

Spence cannot possibly live more than a few weeks, and his father wishes to take him home.

February 15, 1892. Charles Romaine. Sentenced November 29, 1889; county, New York; crime, burglary, third degree; maximum term, five years; prison, State Reformatory; transferred to Auburn.

Sentence commuted to imprisonment in the State Reformatory and in Auburn prison for the term of two years, two months and seven days, actual time, from December 10, 1889.

The prison physician reports that Romaine has been in the hospital for some months, ill beyond recovery. He has served more than half the maximum term for the crime committed by him, and this was his first offense.

February 25, 1892. David Wolf. Sentenced January 16, 1889; county, New York; crime, forgery, second degree; term, six years and six months; prison, Sing Sing.

Sentence commuted to imprisonment in Sing Sing prison for the term of three years, one month and ten days, actual time, from January 18, 1889.

The evidence given upon the trial did not very clearly identify the prisoner as the person who committed the forgery, and affidavits made since tend strongly to establish his innocence. Under the commutation law he has now served considerably more than half his sentence, and in view of the doubt as to his guilt I have concluded to remit the remainder of it.

February 29, 1892. Thomas Murphy. Sentenced June 8, 1891; county, St. Lawrence; crime, seduction under promise of marriage; term, two years and six months; prison, Albany County Penitentiary.

Sentence commuted to imprisonment in Albany County Penitentiary for the term of eight months and twenty-one days, actual time, from June 10, 1891.

The complainant was about thirty-five years of age. There was nothing in the circumstances calling for severe punish-

ment. Prior to the trial upon the indictment judgment had been recovered in an action brought by the complainant against the prisoner for breach of promise of marriage, under which Murphy was imprisoned for several months, and he has now been confined under the judgments in both proceedings for about one year, which is enough for all the requirements of justice. The Hon. John R. Putnam, before whom the civil action was tried, writes that in his judgment the case is a proper one for executive clemency, and the petition is signed by many prominent citizens of St. Lawrence county.

March 2, 1892. Alice Lockwood. Sentenced September 11, 1889; county, New York; crime, grand larceny, second degree; term, three years and six months; prison, New York Penitentiary.

Sentence commuted to imprisonment in New York Penitentiary for the term of two years, five months and nineteen days, actual time, from September 14, 1889.

The prisoner's term will expire on the thirteenth day of May next. She has recently undergone a severe surgical operation, and a further operation is now necessary, which will confine her to her bed for several weeks, perhaps months, and require care and attention which cannot be readily had at the penitentiary. Her conduct during imprisonment has been excellent, and she has rendered services of great value as a nurse in the hospital. Mrs. Beekman de Peyster, Commissioner of the State Board of Charities, recommends very earnestly that she be released.

March 9, 1892. Daniel Lane. Sentenced December 4, 1889; county, Monroe; crime, robbery, first degree; term, twelve years; prison, Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of two years, three months and five days, actual time, from December 6, 1889.

Granted on the recommendation of Rev. Edward J. Hanna, Hon. Cornelius R. Parsons, Hon. William Carroll, Hon. John D. Lynn, Hon. John F. Kinney and other leading citizens of Rochester. This was Lane's first offense. He is in very feeble health and can live but a short time.

March 15, 1892. James E. Minnaugh. Sentenced June 16, 1891, to be executed; county, New York; crime, murder, first degree.

Sentence commuted to imprisonment for life in Sing Sing prison.

There are mitigating circumstances in this case which I deem sufficient to relieve the prisoner from the death penalty. The commutation is recommended by many prominent citizens of New York.

March 15, 1892. Frederick R. Watson. Sentenced May 11, 1888; county, New York; crime, grand larceny, first degree; term, nine years and ten months; prison, Sing Sing.

Sentence commuted to imprisonment in Sing Sing prison for the term of three years, ten months and six days, actual time, from May 11, 1888.

Watson was indicted on the 27th day of February, 1883, for the crime of grand larceny. He was released on bail and the case remained undisposed of until May, 1888, when it was brought to trial and a verdict of guilty was rendered. During the time between the finding of the indictment and the trial Watson remained within the State and appears to have conducted himself in all respects as a law-abiding citizen, carrying on a reputable business, earning his living honestly and furnishing abundant evidence of thorough reformation. He has now been in prison about four years, thus having served, with the

commutation earned, a sentence of five and one-half years. The District Attorney recommends that the petition be granted. In view of all the circumstances I think that the punishment already imposed is enough.

April 27, 1892. Ernest H. Adams. Sentenced February 6, 1890; county, New York; crime, grand larceny, second degree; term, three years; prison, Sing Sing; transferred to Auburn.

Sentence commuted to imprisonment in Sing Sing and Auburn prisons for the term of two years, two months and twenty-two days, actual time, from February 7, 1890.

This commutation reduces the prisoner's sentence about one month and is granted for the reason that if released now he can obtain permanent employment in a good situation and thus be enabled to support his family who have been left destitute by his imprisonment. The complainant joins in the application for clemency.

April 28, 1892. Moses Kennedy. Sentenced October 29, 1889; county, New York; crime, assault, second degree; term, four years; prison, Sing Sing.

Sentence commuted to imprisonment in Sing Sing prison for the term of two years and six months, actual time, from October 30, 1889.

With the usual commutation Kennedy would be entitled to his discharge in October next, but is suffering from a disease contracted during his confinement in prison which will probably terminate fatally before that time. He was quite young when he committed the assault and it was his first offense. His mother asks very earnestly to be permitted to take him home so that she may properly care for him.

May 13, 1892. Henry C. Fanning. Sentenced June 19, 1891, to be executed; county, New York; crime, murder, first degree.

Sentence commuted to imprisonment for life in Sing Sing prison.

The evidence on the trial, most of which was circumstantial, made a strong case against the prisoner, but upon a careful consideration of the whole of it I have reached the conclusion that there is enough doubt as to his guilt, arising principally from the disreputable character of some of the witnesses who testified against him, to warrant a commutation to imprisonment for life.

May 27, 1892. James Holland. Sentenced October 26, 1880; county, New York; crime, burglary, first degree; term, fifteen years; prison, Sing Sing; transferred to Clinton.

Sentence commuted to imprisonment in Sing Sing and Clinton prisons for the term of eleven years, ten months and five days, actual time, from October 27, 1880.

If he had earned all the commutation allowed by the statute the prisoner would have been discharged more than two years ago, but he forfeited one-half of it by an attempt to escape in November, 1880. With that exception his conduct during imprisonment has been good and his time will be out January 10, 1893. He asks that enough of his forfeited commutation be restored to release him in September instead of in the winter season, and I have concluded to grant his request.

May 27, 1892. Norwood Cole. Sentenced February 22, 1889; county, Fulton; crime, burglary, third degree; term, five years; prison, Clinton.

Sentence commuted to imprisonment in Clinton prison for the term of three years, three months and four days, actual time, from February 28, 1889.

Four months' commutation is granted the prisoner, in addition to that earned under the statute, for unusual excellence of conduct, and in consideration of valuable services performed by him.

May 27, 1892. Clarence Millar. Sentenced March 18, 1890 ; county, Rensselaer ; crime, burglary, first degree ; term, eleven years ; prison, Clinton.

Sentence commuted to imprisonment in Clinton prison for the term of two years, two months and thirteen days, actual time, from March 19, 1890.

Granted on the recommendation of the Judge, the District Attorney and many other residents of Rensselaer county. The evidence to connect Millar with the crime was quite weak, and his co-defendant who pleaded guilty declares that Millar is innocent.

May 27, 1892. Walter Butler. Sentenced February 18, 1885 ; county, Oswego ; crime, grand larceny, first degree ; maximum term, ten years ; prison, State Reformatory ; transferred to Clinton.

Sentence commuted to imprisonment in the State Reformatory and in Clinton prison for the term of seven years, three months and fourteen days, actual time, from February 18, 1885.

Butler was convicted of stealing a small sum of money and a gold watch from his grandmother and was sentenced to the Elmira Reformatory. He was then seventeen years of age. He remained at the Reformatory until June 10, 1889, when he was transferred to Clinton prison. The maximum term for the crime committed by him is ten years. If he had been sentenced for that term to the State prison where he could have earned commutation for good conduct he would have been discharged nearly a year ago, but no commutation is allowed to inmates of the Reformatory. A sentence for ten

years would, however, have been much too severe for his offense. Five years would have been ample. His punishment has been greatly in excess of what he deserved and it would be unjust to keep him in prison longer.

June 4, 1892. Harry Simpson. Sentenced December 31, 1891; county, Kings; crime, attempt to commit grand larceny, first degree; term, two years and two months; prison, Kings County Penitentiary.

Sentence commuted to imprisonment in Kings County Penitentiary for the term of five months and four days, actual time, from December 31, 1891.

Before the commission of this offense the prisoner's character was good. He is a young man, and if he can secure his release is offered a very desirable position in a western city, thus affording him an opportunity to begin life anew under favorable circumstances. Full restitution has been made to the injured parties, and many prominent citizens of Brooklyn, including the Judge and the District Attorney, recommend that the application be granted.

June 4, 1892. James Brown. Sentenced March 8, 1888; county, Rensselaer; crime, manslaughter, first degree; term, twelve years; prison, Clinton.

Sentence commuted to imprisonment in Clinton prison for the term of four years, two months and twenty-one days, actual time, from March 16, 1888, on condition that he totally abstain from the use of intoxicating liquors for a period of five years.

Recommended by Hon. James M. Riley, Hon. Charles E. Patterson, Hon. John M. Francis, Arthur MacArthur, H. O'R. Tucker, William C. Cozier, and other leading citizens of Troy; also by Hon. Stephen L. Mayham the Judge who sentenced the prisoner, Hon. Lewis E. Griffith who as District Attorney

prosecuted him and by the present District Attorney, Hon. John P. Kelly. The homicide was the result of a quarrel between the prisoner and the deceased, both being intoxicated, and the deceased, who seems to have been something of a pugilist, being the aggressor. Making the usual deduction for good conduct the prisoner has now served a term of six years which is sufficient for the circumstances of the case.

June 6, 1892. Louis White. Sentenced March 19, 1891; county, Rensselaer; crime, receiving stolen goods; term, two years and eight months; prison, Clinton.

Sentence commuted to imprisonment in Clinton prison for the term of one year, two months and fifteen days, actual time, from March 25, 1891.

There is reason to believe that White's crime was due to ignorance rather than to any criminal intent. He was never before accused of violating the law and his punishment has no doubt been sufficient to deter him from further transgression. He has a family sadly in need of his support.

June 6, 1892. John Graham. Sentenced May 27, 1891; county, Saratoga; crime, grand larceny, second degree; term, two years and six months; prison, Clinton.

Sentence commuted to imprisonment in Clinton prison for the term of one year and seven days, actual time, from June 2, 1891.

In view of his previous good character the prisoner has been sufficiently punished for the part he was shown to have taken in the larceny. Immediate employment has been secured for him

June 9, 1892. James Mead. Sentenced October 30, 1888; county, New York; crime, burglary, third degree; maximum term, five years; prison, State Reformatory; transferred to Auburn.

Sentence commuted to imprisonment in the State Reformatory and in Auburn prison for the term of three years, seven months and seven days, actual time, from November 3, 1888.

Deducting the time allowed for good behavior the prisoner has nearly completed his sentence. He is in the last stage of consumption, and his father desires to take him home.

June 17, 1892. Edward Murray. Sentenced May 4, 1891; county, New York; crime, grand larceny, second degree; term, two years and six months; prison, Sing Sing.

Sentence commuted to imprisonment in Sing Sing prison for the term of one year, one month and fourteen days, actual time, from May 5, 1891.

The prisoner having been sent by his employer to cash a check for \$400, instead of returning with the money, stopped at a saloon, became intoxicated, went on a spree and spent \$160 of it. He was soon afterward arrested, acknowledged his guilt and paid over to the owner the proceeds of the check less the amount above mentioned. This was his first and only offense and was due, not to a deliberate purpose to steal, but wholly to the fact that he was drunk. Of course drunkenness does not excuse crime, but it may, I think, be taken into account in proper cases in measuring the punishment to be imposed. Murray's previous character had always been good; he has now been imprisoned something more than a year; he has earned the commutation provided for good conduct; his family are in want and he can get employment at once if released; the complainant favors his application; further imprisonment does not seem necessary.

June 27, 1892. John Sammon. Sentenced October 15, 1888; county, New York; crime, assault, second degree; maximum term, five years; prison, State Reformatory; transferred to Auburn.

Sentence commuted to imprisonment in the State Reformatory and in Auburn prison for the term of three years, eight months and fourteen days, actual time, from October 15, 1888.

Granted in order that Sammon's friends may take him home to die. He cannot live another week, and has served all but a few months of the term imposed upon him.

June 27, 1892. Charles F. Coleman. Sentenced March 13, 1891; county, Chemung; crime, forgery; term, five years; prison, Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of one year, three months and ten days, actual time, from March 19, 1891.

Recommended by the District Attorney and many leading citizens of Chemung county. A much lighter sentence would have been sufficient, but five years was the shortest term permitted by the statute. The term as commuted is ample.

June 28, 1892. John Marrone. Sentenced October 24, 1887; county, New York; crime, manslaughter, first degree; term, sixteen years; prison, Sing Sing.

Sentence commuted to imprisonment in Sing Sing prison for the term of four years, eight months and two days, actual time, from October 27, 1887.

Granted on the recommendation of the Judge, the District Attorney and other prominent citizens of New York; also of the Hon. Leon Abbett, Governor of New Jersey. The prisoner appears to have been a man of good character, and the evidence produced upon the application for clemency tends strongly to prove that in shooting the deceased he acted in self-defense.

June 28, 1892. William Dallas. Sentenced February 16, 1891; county, Erie; crime, burglary, second degree; term, two years; prison, Erie County Penitentiary.

Sentence commuted to imprisonment in the Erie County Penitentiary for the term of one year, four months and fourteen days, actual time, from February 16, 1891.

Recommended by C. N. Brayton, Oliver G. Steele, Hon. Charles F. Bishop, Hon. Jacob Stern, Hon. Henry H. Guenther, Hon. Matt. Endres and other residents of Buffalo. The prisoner has served the greater portion of his sentence, and the physician of the penitentiary reports that he cannot live out the remainder of it if kept in confinement.

June 28, 1892. Michael Ryan. Sentenced June 21, 1888; county, New York; crime, robbery, first degree; term, ten years and seven months; prison, Sing Sing; transferred to Auburn.

Sentence commuted to imprisonment in Sing Sing and Auburn prisons for the term of four years and eleven days, actual time, from June 22, 1888.

Upon a personal examination of this case made at the prison, and after hearing the statements of the prisoner and of his co-defendant, I am entirely satisfied that Ryan is innocent. He has none of the characteristics of a criminal, but is and has been an industrious man. All the officers of the prison are thoroughly convinced of the truth of Ryan's claim of innocence and heartily recommend his release.

June 28, 1892. John C. Murphy. Sentenced May 14, 1889; county, New York; crime, assault, second degree; term, four years and eight months and fine of \$250; prison, Sing Sing; transferred to Auburn.

Sentence commuted to imprisonment in Sing Sing and Auburn prisons for the term of four years and eight months, subject to commutation, from May 15, 1889.

The prisoner is unable to pay his fine or to employ counsel to move for its remission by the court, and as this was his first offense, imprisonment for four years and eight months seems punishment enough.

June 28, 1892. Walter I. Chase. Sentenced February 20, 1890; county, Cayuga; crime, forgery, second degree; term, five years; prison, Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of two years, four months and seven days, actual time, from February 26, 1890.

The Judge, the District Attorney, eleven of the jurors and other citizens urge that this application for clemency be granted. The Judge writes that no substantial injury was caused by the prisoner's act and that a lighter sentence would have been imposed had the statute permitted. Chase was only twenty-two years old when he committed the forgery, and it was his first offense.

June 28, 1892. Patrick Hilpbarty. Sentenced December 19, 1890; county, Erie; crime, robbery, second degree; term, five years; prison, Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of one year, six months and thirteen days, actual time, from December 20, 1890.

Granted on the recommendation of the Judge and the District Attorney of Erie county, who write that in their judgment there is too much doubt as to the prisoner's guilt to justify further imprisonment.

June 28, 1892. Richard P. Canning. Sentenced November 11, 1890; county, Columbia; crime, forgery, second degree, second offense; term, fifteen years, one month; prison, Clinton.

Sentence commuted to imprisonment in Clinton prison for the term of ten years and one month, subject to commutation from November 24, 1890.

The sentence imposed is too severe for the crime committed. Imprisonment for the commuted term will be quite enough.

June 28, 1892. Henry C. R. Lawrence. Sentenced February 27, 1891; county, New York; crime, assault, second degree; term, two years and eight months; prison, Sing Sing.

Sentence commuted to imprisonment in Sing Sing prison for the term of one year, four months and five days, actual time, from February 28, 1891.

Taking into account the prisoner's previous good character and the great provocation under which he committed the assault, the punishment already imposed seems amply sufficient. His health has become very much impaired during his imprisonment and he can survive but a short time unless released.

June 28, 1892. William McCutcheon. Sentenced February 16, 1869; county, New York; crime, murder, second degree; term, life; prison, Sing Sing.

Sentence commuted to imprisonment in Sing Sing prison for the term of twenty-three years, four months and fourteen days, actual time, from February 19, 1869.

The prisoner became engaged in a bar-room fight with the deceased and stabbed him with a penknife. He was grossly intoxicated at the time, but does not appear to have been any more to blame for the quarrel than the deceased was. To an indictment for murder in the first degree he pleaded guilty of murder in the second. Under the statute then in force homi-

cide of that degree was punishable by imprisonment for not less than ten years, and not necessarily for life. McCutcheon was then but eighteen years of age; he had never before been accused of a criminal offense, and while he deserved severe punishment, I do not think that the circumstances demanded the full penalty. Giving him the benefit of the commutation provided for sentences for less than life he has now served a term of about thirty-nine years, which is all that justice requires.

June 28, 1892. James McCabe. Sentenced November 6, 1879; county, New York; crime, robbery, first degree; term, twenty years; prison, Sing Sing; transferred to Clinton.

Sentence commuted to imprisonment in Sing Sing and Clinton prisons for the term of twelve years, seven months and twenty-five days, actual time, from November 8, 1879.

McCabe was seventeen years old when his term began. Soon afterward he was induced by a much older convict to make an attempt to escape and thereby forfeited one-half of his commutation. Since then his conduct has been in all respects commendable; his services in the prison have been of considerable value and there can be no doubt of his complete reformation. Had he earned full commutation his term would have expired in March last. He can obtain a desirable situation if released and as the object of punishment seems to have been fully accomplished he ought not to be required to serve out the lost time.

June 28, 1892. Victor J. Olsson. Sentenced June 28, 1886; county, New York; crime, rape; term, fifteen years and ten months; prison, Sing Sing.

Sentence commuted to imprisonment in Sing Sing prison for the term of six years and four days, actual time, from June 29, 1886.

Olsson was convicted of ravishing a girl some sixteen years of age. She was an imbecile and consequently was not sworn upon the trial; and while there was circumstantial evidence sufficient to sustain the verdict there still remained room for doubt. Olsson has always strongly asserted his innocence. I saw him at the prison and was much impressed by his statement. I have also received from the father of the girl a letter appealing very earnestly for clemency on the ground that the prisoner has been sufficiently punished. He has now served considerably more than half his term, and in consideration of all the facts and of previous good character I think the application should be granted.

June 28, 1892. Harris Eisberg. Sentenced July 11, 1890; county, New York; crime, grand larceny, second degree; term, three years and eleven months; prison, Sing Sing.

Sentence commuted to imprisonment in Sing Sing prison for the term of one year, eleven months and twenty-one days, actual time, from July 12, 1890.

Granted on the personal application of the complainant. The prisoner upon being arrested immediately returned the money alleged to have been stolen and there is some ground for his claim that when he took it he supposed that he had a right to do so under a promise made to him some time before by the owner. As no private loss was sustained and as there seems to be some doubt of criminal intent I have concluded to grant the application.

June 28, 1892. Ferdinand Metz. Sentenced September 10, 1879, county, Queens; crime, burglary, first degree, four indictments; term, thirty-five years; prison, Sing Sing; transferred to Clinton.

Sentence commuted to imprisonment in Sing Sing and Clinton prisons for the term of twelve years, nine months and fourteen days, actual time, from September 18, 1879.

There is considerable doubt as to the prisoner's guilt. But if guilty a sentence for thirty-five years was altogether too severe. Twenty years would have been quite enough, and with the commutation earned he has already served more than that time.

June 28, 1892. Stephen Raymond. Sentenced November 1, 1883; county, New York; crime, forgery, first degree, second offense; term, life; prison, Sing Sing.

Sentence commuted to imprisonment in Sing Sing prison for the term of eight years, eight months and two days, actual time, from November 1, 1883.

Raymond was convicted of forgery, first degree, second offense, and was sentenced to imprisonment for life. This sentence was imposed, not because the Judge thought the case deserving of such severity, but because the statute, section 688 of the Penal Code, left nothing to the discretion of the court, but made life imprisonment imperative. The counsel for the complainant, who by request of the District Attorney conducted the prosecution of the case, writes that from the facts as disclosed upon the trial and inquiries made before and after it, he is convinced that Raymond was the mere tool of the real forgers, the greater criminals; he did not forge in the ordinary sense of the term, but uttered, that is, presented for payment coupons which had been altered or forged by others, and received the money; that under the circumstances the life sentence has always seemed to him too severe and he heartily favors its commutation. The Judge writes that he has always considered the sentence excessive, that in his judgment imprisonment for ten years would be ample and that he would have imposed that term had the law permitted and he recommends that the sentence be commuted accordingly. The District Attorney concurs in the recommendation of the Judge. The commuted term with the usual allowance is equivalent to more than ten years.

June 28, 1892. James O'Connor. Sentenced July 12, 1883; county, New York; crime, robbery, second degree; maximum term, fifteen years; prison, State Reformatory; transferred to Auburn.

Sentence commuted to imprisonment in the State Reformatory and Auburn prison for the term of eight years, eleven months and twenty-one days, actual time, from July 12, 1883.

O'Connor pleaded guilty and was sentenced to the State Reformatory, the Judge allowing him to choose between that and a sentence of five years in Sing Sing prison. Some two years afterwards he was paroled and went to Rochester where he had secured employment, but was returned to the reformatory in about three months, a charge of highway robbery having been preferred against him. No investigation of the charge appears to have been made either at Rochester or at the reformatory, although O'Connor asserted his innocence and asked for one, but he was transferred at once to the prison. All the information that I have been able to obtain in regard to the matter goes to show that the charge was groundless. O'Connor has now been in the prison for over six years, much longer than he would have been compelled to serve had he been sent there in the first instance. The warden informs me that his record there has been excellent. The Judge who sentenced him recommends that he be released and I think that justice demands it.

June 28, 1892. George W. Long. Sentenced February 25, 1875; county, Albany; crime, burglary, first degree; term, twenty years, to commence after expiration of a previous term; prison, Clinton.

Sentence commuted to imprisonment in Clinton prison for the term of thirteen years, nine months and eight days, actual time, from September 25, 1878.

In February, 1875, Long was convicted of the crime of burglary, third degree, and was sentenced to imprisonment in the Albany County Penitentiary for the term of five years. At

the same time he was also convicted of the crime of burglary, first degree, and was sentenced to imprisonment in Clinton prison for the term of twenty years, the second term to begin at the expiration of the first. Under the two sentences he has now been imprisoned for more than seventeen years, and the complainant, the District Attorney who procured his conviction and many leading citizens of Albany and vicinity earnestly ask for his pardon. In 1880 he forfeited one-half of his commutation under the twenty years' sentence by attempting to escape and but for that would have received his discharge more than two years ago; but during his imprisonment since then, extending over a period of more than twelve years, his conduct has been most exemplary. If released now he can obtain steady employment and I am convinced that he intends henceforth to lead an honest life.

July 6, 1892. James Faulkner. Sentenced February 3, 1891; county, Jefferson; crime, burglary, third degree; term, three years; prison, Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of one year, four months and twenty-nine days, actual time, from February 11, 1891.

Granted on the recommendation of Hon. Wilbur F. Porter, Hon. J. A. McConnell, Hon. C. H. Walts and other prominent citizens of Watertown. The circumstances of the case do not require further punishment.

July 14, 1892. John B. Egerton. Sentenced June 5, 1891; county, New York; crime, attempt to commit grand larceny, second degree; term, two years and six months; prison, Sing Sing; transferred to Auburn.

Sentence commuted to imprisonment in Sing Sing and Auburn prisons for the term of one year, one month and ten days, actual time, from June 6, 1891.

Egerton was charged with embezzling his employer's money and upon being indicted pleaded guilty of an attempt to commit grand larceny. It is clearly shown that he had always been a man of excellent character, and that all the money taken by him was used in providing for the wants of his family and especially of an invalid wife, which his salary was altogether unequal to. This circumstance of course did not in any way justify or excuse his offense, but I think that it entitles his application for clemency to a somewhat more favorable consideration than if the money had been used for some vicious or unworthy purpose. He has now served something more than half his sentence and I think has fully atoned for his wrong-doing. A number of prominent citizens of Jersey City, where Egerton lived, concur with the District Attorney of New York county in recommending that the petition for clemency be granted.

July 14, 1892. Vincenzo Caputti. Sentenced April 25, 1890; county, Kings; crime, assault, first degree; term, five years and nine months; prison, Kings County Penitentiary.

Sentence commuted to imprisonment in Kings County Penitentiary for the term of three years, subject to commutation, from April 25, 1890.

The District Attorney recommends that the sentence be reduced to three years, saying that before the trial he offered to accept a plea of guilty of assault in the third degree, but that the prisoner refused so to plead and the trial proceeded, resulting in a conviction of assault in the first degree. No actual injury was inflicted by the prisoner and a verdict for a lower degree of assault would have been fully warranted by the facts proved. Caputti's character before he committed the offense was good. Three years' imprisonment will suffice.

July 23, 1892. Daniel Keating. Sentenced December 18, 1890; county, Livingston; crime, manslaughter, first degree; term, five years; prison, Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of one year, seven months and five days, actual time, from December 22, 1890.

Recommended by the Judge, the District Attorney and many other residents of Livingston county, including all of the jury; also by the brother of the deceased. The prisoner is suffering from an incurable disease which the physician reports will terminate fatally before many months.

July 25, 1892. George N. Osgood. Sentenced November 19, 1889; county, New York; crime, grand larceny, second degree; term, four years and nine months; prison, Sing Sing.

Sentence commuted to imprisonment in Sing Sing prison for the term of two years, eight months and seven days, actual time, from November 20, 1889.

Before pronouncing sentence the Judge had been informed that the prisoner was an old offender and on that account the punishment was made more severe than it otherwise would have been. It is now clearly shown that the information upon which the court acted was incorrect, that in fact the prisoner had previously borne a good character, had never before been arrested and that this was his first offense of any kind. The stolen property was restored by him to its owner so that no loss was sustained. The time now served is equivalent to a term of three and one-half years, the usual deduction being made. The Judge writes that the prisoner ought not to suffer in consequence of the incorrect statement made as to his character and the District Attorney recommends that the sentence be commuted.

July 25, 1892. Robert L. Wallace. Sentenced July 2, 1890; county, New York; crime, grand larceny, first degree; term, eight years and eleven months; prison, Sing Sing.

Sentence commuted to imprisonment in Sing Sing prison for the term of two years and eighteen days, actual time, from July 9, 1890.

In consideration of the prisoner's youth and previous good character and of the fact that he was enticed into the commission of the crime by a much older person, the punishment already undergone is deemed a sufficient penalty. The application for clemency is very earnestly supported by the most prominent citizens of Pittsburg, Pa., where Wallace formerly lived, one of whom has agreed to furnish him employment if liberated.

July 26, 1892. Arthur Barnard. Sentenced September 29, 1891; county, Rensselaer; crime, grand larceny, second degree; term, two years and six months; prison, Clinton.

Sentence commuted to imprisonment in Clinton prison for the term of nine months and twenty-eight days, actual time, from October 1, 1891.

Upon a careful consideration of all the facts of this case I think the prisoner has been sufficiently punished. The sentence is commuted in accordance with the recommendation of the District Attorney and a large number of the best citizens of Troy.

August 24, 1892. Patrick Murphy. Sentenced June 9, 1890; county, St. Lawrence; crime, assault, second degree; term, four years; prison, Albany County Penitentiary.

Sentence commuted to imprisonment in Albany County Penitentiary for the term of two years, two months and fifteen days, actual time, from June 11, 1890.

The Judge and the District Attorney unite in asking that Murphy be released. He has now only about nine months to serve in order to complete his term, having earned the commutation provided by the statute, and his sentence seems to have been more severe than the circumstances warranted.

September 9, 1892. John J. Louth. Sentenced March 6, 1890; county, New York; crime, forgery, second degree; term, six years and eight months; prison, Sing Sing.

Sentence commuted to imprisonment in Sing Sing prison for the term of two years, six months and five days, actual time, from March 8, 1890.

While it cannot be said that the sentence in this case was greater than the crime deserved, still I think that the object of punishment has now been as fully attained as if the prisoner were compelled to serve out the whole term, and he has two sisters, one of them an invalid, who have been rendered destitute by his imprisonment, and employment has been secured which will enable him to provide for them. He has been imprisoned continually since his arrest, some eight months before his conviction. This was his first offense, his good character before its commission being vouched for by several of the most eminent lawyers of New York city.

September 9, 1892. Charles Saunders. Sentenced November 24, 1890; county, New York; crime, grand larceny, second degree; maximum term, five years; prison, State Reformatory; transferred to Auburn prison.

Sentence commuted to imprisonment in the State Reformatory and in Auburn prison for one year, nine months and nineteen days, actual time, from November 24, 1890.

Saunders took a pair of silver candlesticks belonging to his mother and sold them. Complaint was made against him, and

an indictment found to which he pleaded guilty, and at the request of his mother he was sentenced to the State Reformatory, where he remained about a year and a half and was then transferred to Auburn prison. He is now threatened with insanity, and his parents plead very earnestly that they may be permitted to take him home where he can receive proper treatment, and thus prevent his becoming permanently deranged.

September 19, 1892. Moses J. Speights. Sentenced December 23, 1887; county, New York; crime, manslaughter, first degree; term, fifteen years; prison, Sing Sing.

Sentence commuted to imprisonment in Sing Sing prison for the term of four years and nine months, actual time, from December 24, 1887.

The prisoner, while attempting to escape from the House of Refuge on Randall's Island, killed one of the watchmen. He was then but fifteen years of age. He has now been in prison four years and nine months, a period equal to seven years with commutation. He is ill with consumption and cannot live more than a month or two. His father asks for his release.

September 21, 1892. Charles P. Newman. Sentenced April 20, 1889, county, Monroe; crime, attempt to commit rape; term, thirteen years; prison; Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of three years, five months and four days, actual time, from April 20, 1889.

Granted on the recommendation of the Judge who imposed the sentence and the District Attorney who prosecuted the case, who make a very urgent appeal for clemency upon the ground that the circumstances were not of such a character as to demand further imprisonment. The application is also supported by many citizens of Rochester.

September 21, 1892. Noah Harper. Sentenced September 6, 1880; county, Chenango; crime, rape; maximum term, twenty years; prison, State Reformatory; transferred to Auburn.

Sentence commuted to imprisonment in the State Reformatory and Auburn prison for the term of twelve years and nine days, actual time, from September 15, 1880.

The prisoner was committed to the State Reformatory at Elmira in September, 1880, and was transferred from there to the prison in March, 1889. A sentence for the term that he has served in the prison alone would have been severe for the crime charged against him and to release him is simply an act of justice.

September 21, 1892. Gottfried Muller. Sentenced October 10, 1887; county, Schoharie; crime, robbery, first degree; term, ten years; prison, Clinton.

Sentence commuted to imprisonment in Clinton prison for the term of four years, eleven months and twenty-three days, actual time, from October 15, 1887.

Granted on the recommendation of the Judge who sentenced the prisoner. He writes: "I think the offense was not the outcome of a depraved disposition and as he has suffered imprisonment for nearly five years I am of the opinion that the ends of justice would be fully subserved if the application for clemency were granted."

September 21, 1892. Michael Marine. Sentenced May 27, 1887; county, Westchester; crime, arson, first degree; term, twenty years; prison, Sing Sing.

Sentence commuted to imprisonment in Sing Sing prison for the term of five years, three months and twenty-four days, actual time, from May 31, 1887.

The prisoner was indicted with one or two others for burning a dwelling-house. He was tried first and convicted, but on the trial of a co-defendant which took place some time afterwards

there was an entire failure to establish the commission of the crime charged, the testimony of the principal witnesses differing materially from that given by them on the trial of Marine, and the defendant was consequently acquitted. In view of this change in the evidence giving rise, as it does, to very grave doubts as to the prisoner's guilt, the Judge who presided at both trials and the District Attorney recommend that a pardon be granted or that the sentence be commuted. Marine and his companions probably caused the fire by which the building was destroyed, but the circumstances were not such as to constitute arson.

September 21, 1892. Augustus Watkins. Sentenced March 28, 1890 county, New York; crime, assault, second degree; term, four years and two months; prison, Sing Sing; transferred to Clinton.

Sentence commuted to imprisonment in Sing Sing and Clinton prisons for the term of two years, five months and twenty-one days, actual time, from April 3, 1890.

The prisoner was jointly indicted with another, and both pleaded guilty and received the same sentence. The District Attorney reports that Watkins did not actually make the assault complained of, but was concerned in it merely by reason of his association with the other defendant; that in view of the prisoner's passive conduct in the affair a less term of imprisonment would have been proper in his case than in that of the principal offender, and he recommends that a commutation be granted. The Judge joins in this recommendation.

September 21, 1892. Jacob E. Sutterlin. Sentenced May 17, 1889; county, New York; crime, forgery, second degree; term, five years and seven months; prison, Sing Sing.

Sentence commuted to imprisonment in Sing Sing prison for the term of three years, four months and six days, actual time, from May 18, 1889.

A commutation is very earnestly recommended by the Judge who says that the circumstances presented a strong case for suspension of judgment, but in view of the serious nature of the offense he did not feel justified in taking that course. That in his opinion a sentence of imprisonment for five years, the minimum provided by law, would have been adequate, but that he was obliged to make the term five years and seven months in order that it might expire within the period provided by statute. Including the time that he was confined before sentence Sutterlin has now been imprisoned about four years and eight months, which is equal to more than five years with commutation. The president and the attorney of the company upon whose complaint the proceedings against him were instituted urge that the petition be granted. His health is very poor, he can obtain immediate employment, and has been imprisoned long enough.

September 21, 1892. Frederick Conklin. Sentenced March 29, 1889; county, New York; crime, perjury; term, ten years; prison, Sing Sing.

Sentence commuted to imprisonment in Sing Sing prison for the term of three years, three months and four days, actual time, from June 20, 1889.

Conklin was a member of the police force of the city of New York. The perjury alleged against him was based upon the oath he took when applying for appointment as patrolman, in which he swore that he had never been convicted of any crime, while the fact was that he had been convicted of grand larceny some fifteen years before and been sentenced to imprisonment for five years. The crime for which he is now undergoing punishment was a serious one and demanded some degree of severity, but I am of the opinion that he has now been in prison a sufficient time to deter him from further offending and

also to serve for a warning to others, and that no useful purpose can be subserved by keeping him there longer.

After the expiration of the sentence under his former conviction and until the commission of this offense he is shown to have led an honest and upright life and I firmly believe that he will continue to do so hereafter. His application for clemency is very earnestly supported by many prominent citizens of New York.

September 26, 1892. Dayton Mosher. Sentenced March 30, 1888; county, Fulton; crime, rape; term, eight years; prison, Clinton.

Sentence commuted to imprisonment in Clinton prison for the term of four years, eleven months and twenty-eight days, actual time, from April 4, 1888.

The sentence is commuted so as to expire on the 1st day of April, 1893, as the prisoner says that he can get employment more readily then than at the end of his term, later in the season.

September 26, 1892. Edward L. Burton. Sentenced December 24, 1888; county, Oneida; crime, incest; term, ten years; prison, Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of four years, nine months and one day, actual time, from December 26, 1888.

Burton pleaded guilty and received the maximum sentence provided for the crime committed by him. I think that his previous good character entitled him to some leniency. With the usual commutation he has now served seven years, which, in view of all the facts of the case, is sufficient.

October 15, 1892. Lewis Gilbert. Sentenced April 5, 1887; county, Erie; crime, burglary, third degree, after petit larceny, second offense; term, ten years; prison, Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of five years, six months and five days, actual time, from April 13, 1887.

The prisoner has now served all but one year of his sentence which was the longest that could be imposed for the offense charged. His conduct in prison has been good, and the Judge and many other leading citizens of Buffalo recommend clemency in his behalf.

October 15, 1892. Joseph Elliott. Sentenced May 13, 1886; county, Monroe; crime, forgery, second degree; term, fifteen years; prison, Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of six years, five months and three days, actual time, from May 13, 1886.

Granted on the recommendation of the Hon. Charles Foster, Secretary of the Treasury, in consideration of timely information of much value to the Government, furnished by the prisoner to the Treasury Department.

October 17, 1892. Arthur Thomas. Sentenced December 24, 1891; county, Jefferson; crime, petit larceny, second offense; term, one year and six months; prison, Monroe County Penitentiary.

Sentence commuted to imprisonment in Monroe County Penitentiary for the term of nine months and twenty days, actual time, from December 29, 1891.

The prisoner has served more than half his term. He is very ill and cannot possibly recover in the penitentiary and his mother desires to remove him to the city hospital.

November 2, 1892. David Wagner. Sentenced December 16, 1887; county, Chemung; crime, placing obstruction on railroad track; term, ten years; prison, Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of four years, ten months and seventeen days, actual time, from December 17, 1887.

Wagner and others, all young lads, put a hand-car on a railroad track, ran it several miles and returned it to the place from which they started. They were indicted for obstructing a railroad track and upon conviction Wagner was sentenced to imprisonment for ten years, the severest penalty prescribed by the statute. No person was injured nor was any real harm done by the act complained of, and the sentence was clearly excessive. The prisoner will be taken to his uncle's home in Nebraska.

November 10, 1892. Harry Cromer. Sentenced January 15, 1892; county, Schenectady; crime, assault, second degree; term, two years; prison, Clinton.

Sentence commuted to imprisonment in Clinton prison for the term of nine months and twenty-two days, actual time, from January 15, 1892, on condition that he totally abstain from the use of intoxicating liquors for the period of five years. Recommended by the complainant, the District Attorney, Hon. Everett Smith, Hon. Austin A. Yates, Hon. J. B. Alexander, Hon. John C. Myers, Hon. Peter M. Doty and other prominent citizens of Schenectady county. It was the prisoner's first offense and no harm resulted from it.

November 11, 1892. Edward Dolan. Sentenced May 29, 1890; county, New York; crime, robbery, first degree; term, twelve years and six months; prison, Sing Sing.

Sentence commuted to imprisonment in Sing Sing prison for the term of two years, five months and twelve days, actual time, from May 31, 1890.

The Judge before whom the prisoner was tried recommends that a commutation of the sentence be granted. Affidavits made by the complainant and others show that the complainant was mistaken as to the identity of the person who committed the robbery and that Dolan had nothing to do with it.

November 18, 1892. Edward Reilly. Sentenced February 17, 1887; county, New York; crime, robbery, first degree; term, fifteen years; prison, Sing Sing; transferred to Auburn.

Sentence commuted to imprisonment in Sing Sing and Auburn prisons for the term of five years, nine months and two days, actual time, from February 18, 1887. Also

November 18, 1892. George Harrison. Sentenced April 20, 1888; county, New York; crime, robbery, first degree; term, eighteen years; prison, Sing Sing.

Sentence commuted to imprisonment in Sing Sing prison for the term of four years and seven months, actual time, from April 20, 1888.

These two prisoners were jointly indicted, but had separate trials. They claim to be innocent of the offense charged against them and ask for clemency upon that ground alone. A very thorough examination of the evidence given upon both trials and of affidavits made in support of the applications gives rise to very grave doubts as to the justness of the verdicts. Indeed I am fully convinced that if the evidence contained in these affidavits, the truth of which I have no reason to doubt, had been produced in court in addition to that which was produced, neither of these prisoners could have been convicted. The clemency asked for ought therefore to be granted.

November 18, 1892. Daniel Carmichael. Sentenced June 25, 1890; county, Albany; crime, forgery; term, five years and four months; prison, Clinton.

Sentence commuted to imprisonment in Clinton prison for the term of two years, four months and twenty-four days, actual time, from June 28, 1890.

Recommended by the Judge and the District Attorney; also by many residents of Montgomery county, where Carmichael lived. He is quite old and in very poor health and the physician certifies that in his opinion he cannot live through the winter in prison.

November 18, 1892. Schuyler Case. Sentenced April 2, 1891; county, Erie; crime, attempt to commit rape; term, three years; prison, Erie County Penitentiary.

Sentence commuted to imprisonment in Erie County Penitentiary for the term of one year, seven months and sixteen days, actual time, from April 4, 1891.

The prisoner was convicted of assault with intent to commit rape. There is however good reason to believe that he was not actually guilty of any greater offense than assault, and that there was not in fact any intent on his part to commit rape. According to the report made by the District Attorney the proof did not show more than that, and he together with the Judge and many citizens recommend the case as a proper one for the exercise of clemency.

November 21, 1892. Charles J. Everhardt. Sentenced January 7, 1886; county, New York; crime, forgery, second degree; term, ten years; prison, Sing Sing.

Sentence commuted to imprisonment in Sing Sing prison for the term of five years, eight months and fifteen days, actual time, from March 8, 1887.

The prisoner was convicted on the 7th day of January, 1886, and has been in confinement ever since, a period greater than his sentence, with the usual deduction; but about fourteen months of this time, during which an appeal was pending, were passed in the city prison and therefore do not constitute any part of the term imposed by the court. At the very earnest solicitation of a prominent citizen of Saratoga Springs, who promises to provide the prisoner with employment, I have concluded to give him the benefit of a portion of the time spent in the city prison by way of a commutation of his sentence.

November 21, 1892. George H. Pell. Sentenced June 9, 1890; county, New York; crime, grand larceny, first degree; term, seven years and six months; prison, Sing Sing.

Sentence commuted to imprisonment in Sing Sing prison for the term of two years, five months and fifteen days, actual time, from May 9, 1890.

Pell was convicted of the larceny of certain bonds of the value of about \$30,000 belonging to a banking corporation of the city of New York. That he took the bonds under such circumstances as to constitute larceny as defined by the statute seems clearly established; but it also appears that before any criminal proceedings were instituted he caused their full value to be paid to the bank so that it lost nothing directly or indirectly by reason of his offense. This of course did not change the character of his act or lessen in any degree its criminality, but is I think entitled to considerable weight under the circumstances of the case upon this application. In taking the bonds Pell acted under the direction of others who were stockholders and directors of the bank and he received no part of them or of their proceeds for his own use. The petition for clemency is signed by eleven of the

jurymen (the other juror being dead) and by representatives of the leading banks, business and financial institutions of the city of New York, by eminent clergymen of all denominations and by citizens representing every interest that could have been at all affected by the act complained of. The District Attorney does not oppose the application, and the Judge although not recommending an immediate pardon still regards the case as a proper one for clemency. Upon a careful consideration of all the facts I am clearly of the opinion that the commutation may be granted without detriment to the proper administration of justice.

December 1, 1892. Patrick Forrestall. Sentenced January 30, 1891; county, New York; crime, burglary, third degree; term, five years; prison, Sing Sing; transferred to Auburn.

Sentence commuted to imprisonment in Sing Sing and Auburn prisons for the term of one year, ten months and fifteen days, actual time, from January 31, 1891.

The prisoner can live but a short time and his parents ask for his release so that he may die at home. This was his first offense and he has served more than half of his sentence.

December 1, 1892. Thomas J. Shannon. Sentenced December 9, 1890; county, New York; crime, robbery, second degree; term, five years; prison, Sing Sing; transferred to Auburn.

Sentence commuted to imprisonment in Sing Sing and Auburn prisons for the term of one year, eleven months and twenty-five days, actual time, from December 10, 1890.

Shannon has now been imprisoned nearly two years; he is dying and the sentence is commuted so that he may be cared for at home.

December 7, 1892. Angelo Monico. Sentenced May 22, 1888; county, Erie; crime, manslaughter, first degree; term, twelve years; prison, Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of four years, six months and fifteen days, actual time, from May 24, 1888.

The prisoner and others, all of them more or less intoxicated, became involved in a sudden quarrel, during which the prisoner stabbed the deceased. The Judge who presided at the trial writes that in view of the friendly relations which existed between the parties, the manner in which the brawl commenced and the condition of those concerned in it, a milder sentence would have been imposed had the case been an ordinary one among persons not in the habit of carrying knives and using them, but that a severe sentence was thought necessary in this instance on account of the frequency of fights of a similar character in certain quarters of the city of Buffalo. That the moral effect of the sentences imposed in this and other like cases seems to have produced the desired effect and that in his opinion a commutation may now be properly granted. The District Attorney is of the same opinion and the twelve jurymen who rendered the verdict join in the application.

December 7, 1892. Frank Reingold. Sentenced May 8, 1891; county, Queens; crime, burglary, second degree; term, five years and eight months; prison, Sing Sing.

Sentence commuted to imprisonment in Sing Sing prison for the term of one year, six months and twenty-three days, actual time, from May 15, 1891.

Recommended by the Judge, the District Attorney, all the members of the jury and many citizens. In a strictly technical sense the prisoner may have been guilty of burglary, but his real offense was malicious mischief, a crime of a less serious character, and as such has been sufficiently punished.

December 8, 1892. William H. Fiero. Sentenced December 7, 1891; county, Cayuga; crime, assault, second degree; term, three years; prison, Monroe County Penitentiary.

Sentence commuted to imprisonment in Monroe County Penitentiary for the term of one year and one day, actual time, from December 9, 1891, on condition that he totally abstain from the use of intoxicating liquors until the expiration of the full term imposed by the court.

Recommended by many prominent citizens of Auburn where the prisoner resided. One year imprisonment seems sufficient for the circumstances of the case and a former employer agrees to take the prisoner into his service again at good wages.

December 10, 1892. Vaclar Bozdek. Sentenced February 13, 1891; county, New York; crime, assault, second degree; term, four years and ten months; prison, Sing Sing; transferred to Auburn.

Sentence commuted to imprisonment in Sing Sing and Auburn prisons for the term of one year, nine months and twenty-seven days, actual time, from February 14, 1891.

The use of a weapon likely to produce grievous bodily harm may have warranted the verdict, but the complainant was not seriously injured and a conviction of assault in the third degree would have been more satisfactory. In that view of the case the imprisonment already undergone is enough.

December 12, 1892. Charles N. Cunningham. Sentenced March 16, 1889; county, Chemung; crime, forgery, second degree; term, seven years and six months; prison, Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of three years, eight months and twenty-six days, actual time, from March 18, 1889.

Granted on the recommendation of Hon. David L. Follett, Hon. W. F. Jenks, Hon. Albert F. Gladding, Hon. Edward B.

Thomas of Chenango county; Edward L. Adams of Elmira; Hon. Taylor L. Arms, Hon. B. S. Curran, Hon. Israel T. Deyo of Broome county; Dr. William J. Milne, Bishop Huntington and other prominent citizens. The Judge who sentenced the prisoner writes: "I join heartily and sincerely with his friends asking for his pardon." Up to the time of the charge against him Cunningham had borne a good character and was respected in the community where he lived; he returned the greater part of the money secured by him to its owner and endeavored to effect the return of all of it. With the time given for good conduct he has now served a term of five years, the minimum for his crime and a sufficient punishment in view of all the facts.

December 13, 1892. John Gallagher. Sentenced March 13, 1891; county, Cattaraugus; crime, burglary, third degree; term, four years and six months; prison, Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of one year, nine months and nine days, actual time, from March 6, 1891.

The prisoner is sick and can live only a few weeks at the most, and his father asks for his release.

December 13, 1892. John E. McNamara. Sentenced November 28, 1877; county, Steuben; crime, murder, second degree; term life; prison, Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of fifteen years and sixteen days, actual time, from November 30, 1877.

Very strongly recommended by the Judge, the District Attorney who procured the conviction, the present District Attorney, nine of the jurors (being all of the jury who are now

living), and many of the most prominent citizens of Steuben county on the ground that the prisoner has been sufficiently punished. He was only seventeen years of age when he committed the crime and his conduct in prison has been most exemplary.

December 15, 1892. Henry J. Bopp. Sentenced December 11, 1891; county, New York; crime, bigamy; term, two years; prison, New York Penitentiary.

Sentence commuted to imprisonment in New York Penitentiary for the term of one year and five days, actual time, from December 12, 1891.

From the report made by the District Attorney it appears that the prisoner while intoxicated contracted the second marriage with a woman whom he had seen only once or twice before and with whom he had but little acquaintance. He returned immediately to his lawful wife and continued to live with her until he was arrested upon this charge. In the meantime the woman whom he had bigamously married never called upon or had any communication with him or undertook in any way to claim the rights of a wife, and it seems clear from all the circumstances that she must have been aware of the unlawful character of her marriage with the prisoner at the time it took place. Bopp's reputation before this affair was good. His wife pleads very earnestly for his pardon and the District Attorney recommends it.

December 15, 1892. Thomas Colahan. Sentenced March 10, 1885; county, New York; crime, robbery, third degree; maximum term, ten years; prison, State Reformatory; transferred to Auburn.

Sentence commuted to imprisonment in the State Reformatory and Auburn prison for the term of seven years, nine months and three days, actual time, from March 14, 1885.

The prisoner after a service of about five years at the reformatory was transferred to Auburn prison where he has now been for about two years and six months. In both institutions he has served more than a year in excess of what he would have done had he been sent to prison in the first place for the maximum term and earned the usual commutation. His conduct at Auburn has been good and there is nothing in the case to justify further punishment.

December 17, 1892. Matthew T. Brennan. Sentenced October 12, 1888; county, New York; crime, forgery, second degree; maximum term, ten years; prison, State Reformatory; transferred to Auburn.

Sentence commuted to imprisonment in the State Reformatory and Auburn prison for the term of four years, two months and one day, actual time, from October 19, 1888.

The prisoner passed a forged check for \$75 upon a tradesman and was sent to the State Reformatory and from there drafted to the prison and has now been in confinement four years and two months. He was sixteen years old when sentenced. His punishment has been sufficiently severe and the District Attorney and others recommend his release.

December 21, 1892. Sylvester E. Cook. Sentenced November 2, 1887; county, Wyoming; crime, incest; term, ten years; prison, Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of five years, one month and nineteen days, actual time, from November 4, 1887.

Recommended by the County Judge, the Justices of Sessions and other citizens of Wyoming county. The District Attorney says that the general feeling in the locality where Cook resided is that he has been fully punished. His previous character was good and the sentence was the severest for the offense charged.

December 21, 1892. Charles T. Quinn. Sentenced March 14, 1887; county, Rensselaer; crime, arson, first degree; term, twenty years; prison, Clinton.

Sentence commuted to imprisonment in Clinton prison for the term of five years, nine months and one day, actual time, from March 22, 1887, on condition that he totally abstain from the use of intoxicating liquors until the expiration of the full term imposed by the court.

The Judge before whom the prisoner was tried writes that the actual damage done by the fire was merely nominal; that so far as the testimony showed the crime was wholly motiveless, neither born of revenge nor instigated by hope of gain, but just such an aimless, motiveless, purposeless act as a drunken boy might commit; but that there had been other recent incendiary acts in Troy (not, however, traceable to Quinn) and in making the punishment as severe as he did he had in view the moral effect which it might have upon others as much as the immediate punishment of Quinn. Upon the question of extending executive clemency the Judge says that at the time of the trial Quinn was a mere stripling less than twenty years of age, that in his opinion all the ends and aims of justice have been fully met in the punishment already received and he recommends that the application be granted. The time now served is nearly equal with commutation to a sentence of nine years and this was Quinn's first offense.

December 29, 1892. Thomas Bowes. Sentenced March 5, 1890; county, Albany; crime, robbery, second degree; term, seven years and seven months; prison, Clinton.

Sentence commuted to imprisonment in Clinton prison for the term of two years, nine months and twenty-five days, actual time, from March 7, 1890. Also,

December 29, 1892. James Kennedy. Sentenced March 5, 1890; county, Albany; crime, robbery, second degree; term, seven years; prison, Clinton.

Sentence commuted to imprisonment in Clinton prison for the term of nine months and three days, actual time, from May 29, 1892.

During a drunken frolic the prisoners took from a companion a small sum of money, but there does not seem to have been any intent to steal. Before this occurrence their character was good, and a commutation is recommended by the Judge who sentenced them and by many other citizens of Albany county, including the complainant.

December 30, 1892. Charles Leavitt. Sentenced December 27, 1887; county, Erie; crime, grand larceny, first degree; term, ten years; prison, Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of five years and one day, actual time, from December 31, 1887.

Granted on the recommendation of John B. Sackett, James Mooney, George Sandrock, Daniel N. Lockwood, John B. Manning and other citizens of Erie county, including the Judge, who says that since the trial he has become convinced that when he imposed the sentence he was under an erroneous impression concerning Leavitt's past offenses, and had he then known what he has since learned he would not have sentenced the prisoner for over five years.

December 31, 1892. John Price. Sentenced October 30, 1888; county, Albany; crime, grand larceny, first degree, second offense; term, nineteen years and five months; prison, Clinton; transferred to Sing Sing.

Sentence commuted to imprisonment in Clinton and Sing Sing prisons for the term of ten years, subject to commutation, from November 3, 1888.

Price was convicted of grand larceny in the first degree as a second offense, and was sentenced for the longest term possible under the statute, being twice the longest term prescribed upon a first conviction. The first offense was committed in the State of Georgia. Since his conviction he has voluntarily caused to be returned all the stolen property, which was of the value of about \$40,000. The District Attorney recommends that in view of the prisoner's good conduct and the substantial evidence of his desire to remedy the evil effects of his crime in restoring the property stolen, the additional punishment of ten years imposed for his previous record be remitted and his sentence reduced to ten years. Upon a consideration of all the facts I have thought it just to make the reduction recommended.

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